

***United States Court of Appeals
for the Second Circuit***



APPENDIX

74-1929 ORIGINAL

B
Page

In The
United States Court of Appeals
For The Second Circuit

UNITED STATES OF AMERICA,

Appellee,

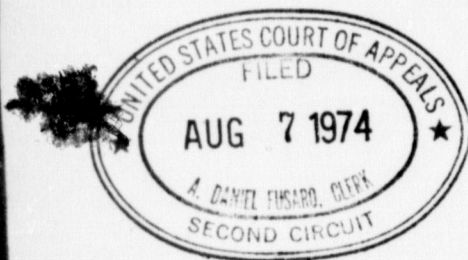
vs.

ROBERT C. SELLAROLE,

Appellant.

APPELLANT'S APPENDIX

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(7428)

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POCKET ENTRIES

TITLE OF CASE		ATTORNEYS
THE UNITED STATES		For U. S.:
vs.		Elliot G. Sagor, AUSA
ROBERT C. SELLAROLE-All cts.	6-21-74	264-6563
GORDON RODNEY- 1&2	5-24-74	
JAMES W. GORAB-1 &2	5-24-74	
HERBERT SLATIN- 1 & 2	5-24-74	
JOHNSON O. LAMONT- 1 & 2	5-24-74	For Defendant:
SHELDON J. ZALKIN- 1 & 2	5-24-74	

[illegible]

Docket Entries

28

DATE	PROCEEDINGS	CLERK'S FEES	
		PLAINTIFF	DEFENDANT
Jan.16-74	Filed Defts. Notice of Motion and Affdvt. returnable 1/22/74 at 2:15 P.M. for the following orders as described, and further relief as may seem just and proper.	Rm.2704	
Jan.18-74	Filed Memorandum of Law on behalf of Deft. Sheldon J. Zalkin in support of DEPT. SLATIN /	Pre-Trial	
Jan.25-74	Filed Notice of Motion returnable on 2/7/74 at 9:30 A.M. for relief as specified on Motion		
Jan.24-74	Filed Stipulation that the return date on motion of Deft. Z lkin be adjourned to 2/2 at 2:15 P.M. 2704 - So ordered Weinfeld, J.		
Feb.8-74	SLATIN-Filed Stipulation adjourning Deft's motion returnable 2/7/74 to 2/13/74 - Wei		
Feb.19-74	SLATIN - Filed memo-endorsed on Notice of Motion dtd 1/25/74--Granted only to the ex as indicated following the argument of the motion - Weinfeld, J. (m/n)		
Feb.19-74	Filed for Govt. Affidavit in Opposition to the motions of deft. Herbert Slatin.		
Feb. 19-74	Filed Govt's Memorandum of Law.		
Feb.20-74	GORDON KENNEDY RODNEY indicted as GORDON RODNEY - Deft. withdraws plea of not guilty and PLEADS GUILTY (atty. Joseph Afflitto present) to count one only. Pre-sentence investigation ordered. Sentence adjd. to 3/29/74 at 10 A.M. Rm. 102. Released on own recognizance, Weinfeld, J.		
Mar.1-74	Case called and adjourned to 3/11/74 call calendar-Weinfeld,J.		
3-11-74	SELLAROLE) LAMONT) ZALKIN) CORAB) SLATIN)	Case Called and adjourned to 3/19/74 Call Calendar at 2:15 P.M.	
3-12-74	JAMES W. GORAB - Deft. withdraws plea of not guilty and PLEADS GUILTY to count 1 only (atty present) Pre sentence investigation ordered. Sentence adjourned 4/26/74 at 10:00 A.M. Released on own recognizance - Weinfeld, J.		
	HERBERT SLATIN - adjourned to 4/19/74 at 2:15 P.M.		
3-19-74	HERBERT SLATIN - Defendant withdraws plea of not guilty & PLEADS GUILTY (atty. present to count 1 only. Pre-sentence investigation ordered. Sentence adjourned to 4/26/74 at 10:00 A.M. Rm.129. Released on own recognizance. WEINFELD,J.		
	JOHNSON O. LAMONT & SHELDON J. ZALKIN - adjourned to 3/26/74 at 2:15 P.M.		
	ROBERT C. SELLAROLE - Case called - Trial 5/6/74 at 10A.M. WEINFELD,J..		

Docket Entries

3a

-3-

DATE	PROCEEDINGS
3-26-74	SHELDON J. ZALKIN - Deft. withdraws plea of Not Guilty and PLEADS GUILTY (atty Michael Rosen, present) to Count 1 only. Pre-sentence investigation Sentence adjourned to 4/29/74 at 10A.M. Rm. 129. Released on own Recognisance JOHN SON O. LAMONT - Adjourned to 5/6/74 at 10A.M.
3-29-74	Filed Memo-endorsed on Notice of Motion dtd 1/16/74 = In view of the movants of guilty Count 1, the motion is marked withdrawn = Weinfeld, J. (m/n)
3-29-74	Filed Memo-endorsed on above motion dtd 1/16/74 - The within motion is disposed indicated upon the stenographic record. Decision Reserved on motion for severance on the perjury counts. So ordered - Weinfeld, J. (m/n)
3-29-74	Filed Govt. Affidavit in Opposition to the motions of deft. Sheldon Zalkin dt
3-29-74	Filed Govt.'s Memorandum of Law.
4-10-74	JOHNSON O. LAMONT - Arraigned before Magistrate Hartenstein. Deft. ordered photographed and fingerprinted. Bail fixed at \$25,000 unsecured P.R.B. Bail limits to include Eastern District of New York.
4-16-74	JOHNSON O. LAMONT - Deft. withdraw plea of not guilty and PLEADS GUILTY (att. to count 1 only. Pre-sentence investigation ordered. Sentence adjourned - at 10A.M. Rm. 129. Bail continued (\$25,000 P.R.B.) Bench Warrant Vacated. Limits extended to permit Deft. to travel aboard and return promptly - also include California - Weinfeld, J.
4-26-74	GORAB - Filed Affirmation as govt. witness.
5-6-74	Trial begun before Weinfeld, J. and a Jury as to Deft. ROBERT C. SELLAMOLE.
5-7-74	Trial continued
5-8-74	Trial continued
5-9-74	Trial continued
5-10-74	Trial continued - Count 6 Dismissed
5-13-74	Trial continued
5-14-74	Trial continued
5-15-74	Trial continued
5-16-74	Trial continued and concluded - Jury Verdict - Deft. GUILTY on counts 1,2,4,5 NOT GUILTY ON COUNT 3. Presentence investigation ordered. Sentence adj. until 10AM - June 21, 1974 - Rm. 7G6 Released on own recognisance - WEI

Docket Entries

4a

PROCEEDINGS

- AY
-74 JOHNSON O. LAMONT - Filed JUDGMENT (atty. present) It is adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of ONE (1) YEAR on count 1 pursuant to Section 3651 of Title 18, U.S.Code, as amended, with provision that the deft. be placed in a JAIL or TREATMENT type institution for a period of TWO (2) MONTHS as provided in the aforesaid section. It is adjudged that the execution of the remainder of the sentence be suspended and defendant placed on probation for a period of ONE (1) YEAR, to commence upon expiration of confinement, subject to the standing probation order of this Court. Count 2 is dismissed on motion of deft's counsel with the consent of the Government. Deft. continued on \$25,000 P.R.B. until no later than 10AM May 28, 1974 at which time he is to surrender to the United States Marshal for service of sentence. - WEINFELD, J. (copies issued)
- AY
-74 HERBERT SLATIN (Filed JUDGMENT (atty present) It is adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of ONE (1) YEAR on count 1 pursuant to Section 3651 of Title 18, U.S.Code as amended with the provision that defendant be placed in a JAIL or TREATMENT type institution for a period of TWO (2) MONTHS as provided in the aforesaid section. It is adjudged that the execution of the remainder of the sentence be suspended and defendant placed on probation for a period of ONE (1) YEAR to commence upon expiration of confinement, subject to the standing probation order of this court. Count 2 is dismissed on motion of deft's counsel with the consent of the Government. Deft. released on own recognizance until no later than 10AM May 28, 1974 at which time he is to surrender to the United States Marshal for service of sentence. WEINFELD, J. (copies issued)
- AY
-74 JAMES W. GORAB - Filed JUDGMENT (atty. present)-It is adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of EIGHTEEN (18) MONTHS on count 1 pursuant to Section 3651 of Title 18, U.S.Code as amended, with provision that defendant be confined in JAIL or TREATMENT type institution for a period of FOUR (4) MONTHS as provided in the aforesaid section. It is adjudged that the execution of the remainder of the sentence be suspended and defendant placed on probation for a period of TWO (2) YEARS, to commence upon expiration of confinement, subject to the standing probation order of this Court. Count 2 is dismissed on motion of defendant's counsel with the consent of the Government. Defendant released on own recognizance until no later than 10AM 5/28/74 at which time he is to surrender to the United States Marshal for service of sentence. WEINFELD, J. (copies issued).
- AY
-74 GORDON KENNEDY RODNEY - Filed JUDGMENT (atty. present) It is adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of EIGHTEEN (18) MONTHS on count 1 pursuant to Section 3651 of Title 18, U.S.Code, as amended with provision that defendant be confined in a JAIL or TREATMENT type institution for a period of FOUR (4) MONTHS as provided in the aforesaid section. It is adjudged that the execution of the remainder of the sentence be suspended and defendant placed on probation for a period of TWO (2) YEARS, to commence upon expiration of confinement, subject to the standing probation order of this Court. Count 2 is dismissed on motion of defendant's counsel with the consent of the Government. Defendant released on own recognizance until no later than 10AM 5/28/74 at which time he is to surrender to the United States Marshal for service of sentence. WEINFELD, J. (copies issued)

Docket Entries

5a

73 CR.1114

JUDGE WEINFELD

PAGE 5

73 Cr. 1114

U.S. MARSHAL, D.C.

DATE	PROCEEDINGS
5-24-74	SHELDON J. ZALKIN - Filed JUDGMENT(atty present)-It is adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of ONE (1) YEAR on count 1 pursuant to Section 3651 of Title 18, U.S.Code, as amended, with provision that defendant be placed in a JAIL or TREATMENT type institution for a period of TWO(2)MONTHS as provided in the aforesaid section. It is adjudged that the execution of the remainder of the sentence be suspended and defendant placed on probation for a period of ONE(1)YEAR to commence upon expiration of confinement, subject to the standing probation order of this court. Count 2 is dismissed on motion of defense counsel with the consent of the Government. Defendant is released on own recognizance until no later than 10AM 5/28/74 at which time he is to surrender to the United States Marshal for service of sentence. - WEINFELD, J. (copies issued)
5-31-74	JOHNSON O. LAMONT Filed CORRECTIONAL RETURN, Deft delivered to <i>Franklin H. Ryan</i>
5-31-74	ZALKIN - Filed commitment & entered return, Deft delivered to <i>Franklin H. Ryan</i>
5-31-74	Slater Filed commitment & entered return, Deft delivered to <i>Franklin H. Ryan</i>
5-31-74	Reddy Filed commitment & entered return, Deft delivered to <i>Franklin H. Ryan</i>
5-28-74	JAMES W. GORAB - Oral application to adjd. surrender date granted. Deft. released on own recognizance until no later than 10AM 7/3/74 at which time deft. to surrender to U.S. Marshal for service of sentence - WEINFELD, J.
6-21-74	ROBERT C. SELLAROLE - Filed JUDGMENT(atty present)It is adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of TWO (2) YEARS on each of counts 1, 2, 4, 5 and 7 to run concurrently with each other. Defendant released on own recognizance until not later than 10AM 6/24/74 at which time he is to surrender to the U.S. Marshal for service of sentence. WEINFELD, J. (copies issued)
6-26-74	SELLAROLE , - Filed Government's Memorandum of Law
6-26-74	SELLAROLE - Filed Notice of Motion for Bail Pending Appeal.
6-28-74	SELLAROLE - Filed Memo-endorsed on Notice of Motion dtd 6/24/74 -- The motion for pending appeal is granted upon condition that the appeal be prosecuted with all due diligence and expedition and upon the express condition that the appellee shall serve and file the record appendix on appeal and his brief no later than 7/17/74 The appellee shall file its brief no later than 8/8/74 and both sides shall be ready for argument of the appeal on 8/15/74. In event of failure to comply with conditions imposed, on ex parte application, the deft. will be required to surrender himself to U.S. Marshal unless Ct. of Appeals otherwise directs. Upon consent of govt. deft. is released on own recognizance. So ordered WEINFELD, J. (m/n)
Jul- 5-74	LAMONT - Filed correspondence by Mrs. Lamont with memo endorsed: The above application is granted to the extent that upon the defendants release, the probation shall be unsupervised. - Weinfield, J. m/n by pro-se clerk.
Jul- 2-74	GORAB - Filed order that surrender order for 7-3-74 is hereby revoked. Deft. is to surrender himself for sentence within 7 days of the

Docket Entries

6a

PROCEEDINGS

ROBERT C. SELLAROLE- Filed defendant's notice of appeal to the USCA for the 2nd Circuit from judgment entered on 6-21-74 - copies mailed to deft. and US Attorney.

JOHNSON O. LAMONT- Filed AMENDED JUDGMENT that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of ONE (1) YEAR on count 1 pursuant to section 3651 of T. 18, US Code, as amended, with provision that defendant be placed in a JAIL or TREATMENT type institution for a period of TWO (2) MONTHS as provided in aforesaid section. It is adjudged that the execution of the remainder of the sentence be suspended and defendant placed on probation for a period of ONE (1) YEAR, to commence upon expiration of confinement, subject to the standing probation order of this Court, the probation to be unsupervised subject to further order of this Court. Count 2 is dismissed on motion of defendants counsel with the consent of the Government. Defendant continued on \$25,000.00 P.R.B. until no later than 10 A.M., May 28, 1974 at which time he is to surrender to the U.S. Marshal for service of sentence. -- Weinfeld, J. ----- copies issued.

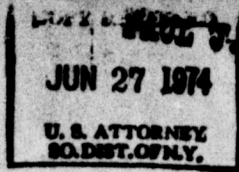
4 Filed Govt's requested voir dir e questions.

-74 Filed affirmation of Ronald J. Margolis.

A TRUE COPY
RAYMOND E. BURCHARDT, Clerk
By *[Signature]*
Deputy Clerk

NOTICE OF APPEAL
(Filed June 27, 1974)

7a



CURRAN

g

JUN 27 11 28 AM '74

S.D. OF N.Y.
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA)

-v-

ROBERT C. SELLAROLE,

Defendant-Appellant)

CRIMINAL ACTION

INDICTMENT NO. 73 Cr. III4

NOTICE OF APPEAL E.W.

TO: HONORABLE PAUL J. CURRAN
U.S. ATTORNEY
SOUTHERN DISTRICT OF NEW YORK
U.S. COURT HOUSE
FOLEY SQUARE
NEW YORK, NEW YORK

SIR:

NOTICE is hereby given that the Defendant-Appellant, Robert C. Sellarole, hereby appeals to the United States Court of Appeals for the Second Circuit, from the whole of the judgment of conviction entered by the United States District Court for the Southern District of New York, on Friday, June 21st, 1974, wherein the Defendant-Appellant, Robert C. Sellarole, was sentenced to a two (2) year custodial term on Indictment No. 73-Cr. III4.

Adolph J. Galluccio
ADOLPH J. GALLUCCIO
ATTORNEY FOR DEFENDANT-APPELLANT

DATED: June 24th, 1974.

Robert C. Sellarole
77 Fredrick St
Hackensack, N.J.

copies mailed

(2)

INDICTMENT (Filed December 12, 1973)
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

8a

- - - - -x

UNITED STATES OF AMERICA, :

- v - :

INDICTMENT

ROBERT C. SELLAROLE, :

73 Cr. 1114

GORDON RODNEY, :

JAMES W. GORAB, - *Margolis* :

HERBERT SLATIN, - *R. Gerson* :

JOHNSON O. LAMONT, and *Peter Stone* :

SHELDON J. ZALKIN, :

Defendants. :

- - - - -x

Judge W. W. W. W.

The Grand Jury charges:

Introduction

1. At all times relevant herein, the Bergen County Sewer Authority (Sewer Authority) was a public authority of the State of New Jersey with offices at Mehrhof Road, Little Ferry, New Jersey.

2. At all times relevant herein, Sterling National Bank and Trust Company of New York (Sterling National Bank) was a national banking association with a branch office at 540 Madison Avenue, New York, New York.

3. The defendant ROBERT C. SELLAROLE, at all relevant times, was a Commissioner of the Sewer Authority.

4. The defendant, GORDON RODNEY, at all relevant times was self employed at 73 Buschmann Avenue, Haledon, New Jersey.

5. The defendant, JAMES W. GORAB, at all relevant times was self employed at 274 Monroe Avenue, Wyckoff, New Jersey.

6. The defendant, HERBERT SLATIN, at all relevant times to this indictment was employed as a mortgage broker in New York City.

7. The defendant, JOHNSON O. LAMONT, at all relevant times was a movie producer who resided at 24 Fifth Avenue, New York, New York.

8. The defendant, SHELDON J. ZALKIN, at all relevant times was an Assistant Vice President of Sterling National Bank.

9. During 1972 and early 1973, the Sewer Authority had over forty (40) million dollars in deposits in various banks and in United States obligations, resulting from the issuance of Sewer System ^{correct} Bonds. The Sewer Authority through the direction and discretion of one or more of its Commissioners would designate which banks would hold these ^{incorrect} deposits. These deposits, which were often evidenced by certificates of deposit, would be kept in various banks until such time as they would be expended for Sewer Authority projects, and from time to time deposits would be rolled over or transferred from one bank to another. ^{correct}

Indictment
Conspiracy

10a

10. From on or about the first day of June, 1972 up to and including the date of the filing of this indictment, in the Southern District of New York and elsewhere, ROBERT C. SELLAROLE, GORDON RODNEY, JAMES W. GORAB, HERBERT SLATIN, JOHNSON O. LANDOLT, AND SHELDON J. EALKIN, the defendants, and other persons to the Grand Jury known and unknown, unlawfully, wilfully, and knowingly did combine, conspire, confederate and agree together and with each other to violate Section 1952 of Title 18, United States Code.

11. It was part of said conspiracy that the defendants would and did use and cause to be used facilities in interstate and foreign commerce, including telephones and the mails, and would travel and cause others to travel in interstate commerce, with intent to promote, manage, establish, carry on and facilitate the promotion, management, establishment and carrying on of an unlawful activity, to wit, bribery in violation of the laws of the State of New Jersey, namely, N.J.S. 2A:93-6, and thereafter said defendants would and did distribute the proceeds of said unlawful activity and would and did perform and attempt to perform acts to promote, establish, carry on and facilitate the promotion, establishment and carrying on of said unlawful bribery.

12. Among the means by which the defendants and co-conspirators would and did carry out the aforesaid conspiracy were the following:

(a) The defendant ROBERT C. SELLAROLE, being a Commissioner of the Sewer Authority, would and did agree with the defendant GORDON RODNEY to arrange for the transfer from one bank to another of several millions of dollars of Sewer Authority deposits in return for the payment of sums of money and other things of value.

(b) The defendants ROBERT C. SELLAROLE and GORDON RODNEY would and did specifically agree to receive money and other things of value from the defendant JAMES GORAB which the defendant JAMES V. GORAB would and did receive from the defendants JOHNSON O. LAMONT and HERBERT SIATIN, which payments were intended by them to induce the transfer of Sewer Authority deposits.

(c) The defendant ZALKIN would and did promise to arrange loans from the Sterling National Bank to defendants LAMONT and SIATIN in return for the receipt by the Sterling National Bank of deposits from the Sewer Authority.

(d) In or about September, 1972, defendant ROBERT C. SELLAROLE would and did help to arrange for the transfer of \$1,000,000 dollars of Sewer Authority money to be deposited in the Sterling National Bank for one year, and as a result thereof \$1,000,000 dollars was transferred to the Sterling National Bank, and the Sewer Authority was given a certificate of deposit to be held by them for a year.

(e) In or about September and October, 1972, defendants LAMONT and SLATIN would and did pay CORAB a total of \$3,750 dollars, which payments were in connection with the past and future transfer of Sewer Authority deposits to the Sterling National Bank, which defendant CORAB in turn transferred in substantial part to SELLAROLE and ROONEY in the form of cash.

OVERT ACTS

In furtherance of said conspiracy and to effect the objects thereof, the defendants and co-conspirators committed the following overt acts, among others, in the Southern District of New York and elsewhere:

1. In or about June, 1972, the defendant GORDON ROONEY met with the defendant JAMES CORAB.

2. On or about September 22, 1972, the defendant ROBERT SELLAROLE had a conversation with Robert Guido, the Treasurer of the Sewer Authority.

Indictment

13a

3. On or about September 28, 1972 defendants JOHNSON O. LAMONT and HERBERT SLATIN had a conversation with defendant JAMES W. GORAB. LAMONT and SLATIN arranged to make a payment to GORAB of \$1,250 dollars.

4. On or about the evening of September 28, 1972 the defendants SELLAROLE, RODNEY and GORAB had^a conversation.

Stuber → 5. On or about October 2, 1972 the defendants LAMONT, SLATIN, and ZALKIN had a conversation.

6. On or about October 3, 1972 the defendant JOHNSON O. LAMONT drew a check for \$1,450 payable to defendant JAMES GORAB.

7. On or about October 4, 1972 the defendant LAMONT drew a check for \$1,050 payable to defendant GORAB.

8. On or about October 6, 1972 defendant RODNEY received \$1,875 in cash.

9. In or about October 1972 defendant SHELDON J. ZALKIN placed a telephone call to the Garden State National Bank in New Jersey.

10. On or about October 31, 1972 defendants SELLAROLE and RODNEY had a conversation.

11. On or about November 13, 1972 defendants SELLAROLE and RODNEY had a conversation.

(Title 18, United States Code, Section 371.)

Indictment
COUNT TWO

14a

The Grand Jury further charges:

From on or about June 1, 1972 up to and including January 31, 1973, in the Southern District of New York and elsewhere, ROBERT C. SELLAROLE, GORDON RODNEY, JAMES W. GORAB, HERBERT SLATIN, JOHNSON O. LAMONT, and SHELDON J. ZALKIN, the defendants, unlawfully, wilfully and knowingly did use and cause to be used facilities in interstate and foreign commerce, including telephones and the mails, and would travel and cause others to travel in interstate commerce, with intent to promote, manage, establish, carry on and facilitate the promotion, management, establishment and carrying on of an unlawful activity, to wit, bribery in violation of the laws of the State of New Jersey, namely N.J.S.2A:93-6, and thereafter said defendants did distribute the proceeds of said unlawful activity and did perform and attempt to perform acts to promote, manage, establish, carry on and facilitate the promotion, management and carrying on of said unlawful bribery.

(Title 18, United States Code, Sections 1952 and 2.)

Indictment
COUNT THREE THROUGH SEVEN

The Grand Jury further charges:

1. On or about March 13, 1973, in the Southern District of New York, ROBERT C. SELLAROLE, the defendant, having duly taken an oath as a witness that he would testify truthfully before a grand jury of the United States of America, duly impanelled and sworn in the United States District Court for the Southern District of New York, and inquiring for that District into violations of federal law, unlawfully, wilfully and knowingly and contrary to said oath, did make false material declarations as hereinafter set forth in the following Counts:

2. At the time and place aforesaid, the said grand jury was conducting an investigation into possible violations of Sections 2, 371 and 1952 of Title 18, United States Code, to determine whether the defendant ROBERT C. SELLAROLE and others had agreed to receive and give payments or other things of value in connection with the transfer of funds of the Bergen County Sewer Authority, and to determine whether any persons violated such statutes.

3. It was material to the investigation described in paragraph 2 hereof to ascertain whether there was any money or other thing of value given or paid to any person and whether there was any conversation with any person concerning the placing of any Sewer Authority deposits and to ascertain the identity of any such persons, and what was said on that

4. At that time and place aforesaid ROBERT

C. SELLAROLE, the defendant, appearing as a witness under oath before said grand jury did testify falsely, with respect to the aforesaid material matters as follows:

COUNT 3

Q Have you had conversations with Mr. Gorab in any respect about the placing of certificates of deposit or other investments with any other banks?

A No.

Q You are sure of that?

A Not that I remember. No. Not at all.

Q Now, did Mr. Gorab ever ask you to make or recommend any investment by the Sewer Commission to any financial institution?

A Not to my knowledge. He's never directly asked for anything in the way of CD's.

Q You say directly. Has he ever indirectly asked for anything?

A No, I don't remember any conversation with Mr. Gorab relative to CD's, certificates of deposit.

Q And that's a question I've asked you earlier this morning, and you have had some time to think about it, I take it?

A Yes.

Q And your answer is that you have no recollection of any such conversation?

A No. That's the answer. Yes.

*SVW
He could have
said some
for Ols if
lying*

*Anything
ask about
Riding*

Q Now, was there any discussion concerning the placing of this certificate of deposit about making any loans to any persons either connected with you or connected with any person who is in any way involved with the negotiations for the placing of this certificate of deposit at the Sterling Bank?

A No.

Q Was there any discussion about any fee to be paid to any person in connection with the placing of this certificate of deposit?

A No.

Q Was there any fee paid to any person, to your knowledge, in connection with the placing of this certificate of deposit?

A No.

Q You realize, of course, that would be a crime?

A Of course.

• • • •

COUNT 5

Q So after you contacted Mr. Guido, is it your information that this money was transferred and a certificate of deposit returned?

A Yes. We received weekly communications on the activity in certificates of deposit and investments from our office.

Q Was Mr. Rodney in any way connected with these negotiations after you telephoned Mr. Salkin?

A No. He would have no business to be involved.

Q Did you have any conversations with Mr. Rodney about this matter?

A I might have mentioned to him that a CD had taken place, yes.

Q Was there any other discussion with Mr. Rodney concerning the Sterling Bank?

A No. There was not.

Q Was there any discussion concerning placing another certificate of deposit or investing further moneys of the Sewer Commission with the Sterling Bank, following the first certificate of deposit?

A Not to my knowledge.

Q Well, did you have any conversation about that subject?

A. None with me, no.

Q Do you know whether there was any such conversation?

A No, I do not.

* * * * *

Indictment

no proof

19a

COUNT 6

Q Do you know a man by the name of Herbert Slayton?

A No, sir.

Q Do you know a man by the name of Jack Laurent?

A No, sir.

Q Have you ever heard those names?

A No, sir. Not prior to today. The gentleman I came in with mentioned his name.

Q That was an agent of the FBI?

A Right.

* * * * *

COUNT 7

Q And how do you know Mr. Olsberg?

A Through Mr. Rodney.

Correct

Q And under what circumstances were you introduced to Mr. Olsberg by Mr. Rodney?

Correct

A A concern in South Jersey who was recasting some of their mortgages asked, and they had gone through a bankruptcy or something, and asked if I could help them in placing a mortgage.

Q Who was that?

Correct

A South Jersey Asphalt Company.

Q And what sort of a mortgage did they want?

Indictment

20a

A A mortgage on all their business property which includes an asphalt plant. They are in the asphalt production business. *Correct*

Q And who is the principal of the South Jersey Asphalt Company, with whom you had this discussion?

A Al Sabrowski, S-a-b-r-o-w-s-k-i. He's a friend of long standing. *Correct*

Q So you went to Mr. Olsberg to discuss this matter?

A Yes, asked him if he could help out Mr. Sabrowski on his problem of recasting his mortgages. *Correct*

Q I take it you had some conversation with Mr. Rodney prior to that, during which Mr. Rodney recommended that you see Mr. Olsberg?

A Well, yes, Mr. Rodney being in the construction equipment end of the business, and during our conversation I mentioned this friend of long standing from South Jersey who has had a problem with collections and he had financial trouble and he's looking to recast his entire operation, and get functioning properly again. And he recommended Mr. Olsberg. He said "I know a fellow that's quite expert in this type of work, and perhaps he should look at it," and I--he was recommended to me through Mr. Olsberg on that basis.

EGS:d1f
73-2328

Indictment

21a

Q Through Mr. Rodney, you mean? *CO*

A Yes.

Q Now, what was the discussion with Mr. Olsberg? Incidentally, did that have anything to do with any funds from the Sewer Commission?

A No, it had nothing to do with that. Strictly on the basis of what kind of a statement and what his previous record was, and the type of work and contracts he had on hand, *Correct*

Q Did you have any conversation with Mr. Olsberg in connection with investing funds of the Sewer Commission? *Correct*

A No. *never discussed the investing per se*

(Title 18, United States Code, Section 1623.)

FOREMAN

PAUL J. CURRAN
United States Attorney

EXCERPTS
TRANSCRIPT OF PROCEEDINGS BEFORE WEINFELD, D.J. 22a
AND A JURY DATED MAY 6, 1974

hprm

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ROBERT C. SELLAROLE,

Defendant.

73 Cr. 1114 (EW)

Before:

HON. EDWARD WEINFELD,

District Judge
And a Jury.

May 6, 1974

10:00 o'clock, a.m., Room 129

APPEARANCES

PAUL J. CURRAN, JR., ESQ.

United States Attorney

BY: ELLIOT G. SAGOR, ESQ., of Counsel

Assistant United States Attorney

ADOLPH J. GALLUCCIO, ESQ.

Attorney for Defendant

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(Case called.)

(A jury was duly impaneled and sworn.)

THE COURT: Before counsel make their opening statements, there is one item I intended to mention. I do not know whether or not this case will or will not attract any publicity, but I am instructing you now, if you should see any item or hear any item about it, to disregard it, pay no attention, not read or listen to any item about the case. As I suggested in my remarks to you, cases are decided on evidence presented in the courtroom and there isn't anybody who can give you more information than you will learn from the case as it progresses and as witnesses are called and testimony given. Please bear in mind not to read or listen to anything about the case at all. As I say, I do not know if there will or will not be, but it is important for you to listen to the evidence in the courtroom. Proceed.

MR. SAGOR: Your Honor, Mr. Galluccio, Madame Foreman, ladies and gentlemen of the jury. This case involves a Government official of New Jersey, Robert Sellarole, who corruptly received cash payments in connection with his management for public funds while he was Commissioner of the Bergen County Sewer Authority. This case also concerns charges that Mr. Sellarole deliberately lied to conceal his receipt of legal cash payments when he appeared before a

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3.

grand jury under oath in this courthouse. The Bergen County Sewer Authority, in the fall of 1972, had \$40 million in public funds capable of investment. Mr. Sellarole and others entered into a scheme whereby he would personally receive, and others, \$2,500 in cash for each million dollars of public funds of several millions of dollars, \$2,500 each, for each investment of the million dollars to go into a New York bank. As the plan evolved, one million dollars of Bergen County Sewer money was transferred to a New York bank and some \$3,750 was passed to Mr. Sellarole, and his associates of which \$2,000 was received by Robert Sellarole on two occasions in cash in the mens' room of two New Jersey restaurants.

The scheme came to an abrupt end in March of 1973 when Mr. Sellarole was summoned for a grand jury investigating the scheme in the United States Court House. Mr. Sellarole was put under oath and the evidence will show he deliberately committed perjury, and testified to conceal illegal receipt of cash payments.

As your Honor has told you, my name is Elliot G. Sagor, Assistant U. S. Attorney, and seated to my left is Mr. Fleischer, a Special Agent of the Federal Bureau of Investigation. It is our duty and responsibility to prosecute this case on behalf of the United States. I say prosecute because as your Honor has told you, this is a criminal case. Mr.

1 hprm

2 Sellarole is the subject of a seven count indictment. Before
3 explaining to you what the facts in the case will show, what
4 the chronology of the events are, let's briefly look at the
5 charges in the indictment. Judge Weinfeld has briefly
6 referred to it, let's do it one more time before we begin.

7 Count one of this indictment charges Mr. Sellarole
8 with the crime of conspiracy which is simply defined as a
9 criminal partnership in crime. In connection with this scheme
10 that I have referred to, it is alleged it began in the summer
11 of 1972 and allegedly Mr. Sellarole's associates in the scheme
12 were persons Judge Weinfeld has already referred to and let's
13 do it again, just briefly. Mr. Gorab, and a Mr. Rodney.
14 These names you will hear during the trial. They are people
15 who are referred to in the indictment, who live in New Jersey.
16 We think of them as the New Jersey side of the transaction,
17 Mr. Sellarole, Mr. Rodney and Mr. Gorab. On the New York side,
18 across the Hudson River, of the transaction are Mr. Slaitin
19 co-conspirator and Mr. Lamont and a Mr. Solkin. Mr. Solkin
20 is vice president of the Sterling National Bank.

21 Count one of the indictment alleges that the
22 interstate facilities -- that is why the Federal Government
23 has jurisdiction in the case -- such as telephone, sending
24 persons across the state line with bribe money and use of the
25 mails were used, and a specific violation of a New Jersey or

1 hprm

2 state law alleged here, bribery, which simply provides that
3 public officials such as Mr. Sellarole as Commissioner, cannot
4 receive money for this.

5 Count two is known as a substantive count. Judge
6 Weinfeld defined it as the actual commission of the crime
7 itself. In this case it is alleged in June through January,
8 June '72 through January 1973, these men engaged in the acts
9 in question. In other words, interstate facilities were used
10 to pass the \$30,750 to a public official of New Jersey.

11 The remaining counts of the indictment, five in
12 number, are what is known as perjury counts. This is that on
13 March 13, 1973, Robert Sellarole appeared as a witness before
14 a grand jury in this courthouse, was sworn and put under oath
15 to tell the whole truth, nothing but the truth, in the matter
16 pending before the grand jury, and perjured himself on five
17 separate occasions, basically to conceal any evidence,
18 involvement on his part in connection with the receipt of the
19 illegal payments and in connection with knowing of any of the
20 co-conspirators here in connection with their receipt, too,
21 of any payments.

22 As Judge Weinfeld has explained, the purpose of an
23 opening statement is to give you a preview or broad outline
24 of the facts as they will be presented to you and the way
25 facts and events are presented in the Federal Court or, indeed,

1 hprm

2 any American court, is from the testimony of witnesses who
3 will appear before you from that witness stand over here, who
4 will be sworn, under oath and appears through the documents
5 presented to the witnesses, and as his Honor has referred to
6 you, any transcripts or tape recordings presented to you, and
7 you can see some black suitcases here, and those are our
8 electronic recording equipment that you will be able to hear
9 sometime during the trial, some of the actual conversations
10 of Mr. Sellarole and the others of some of the illegal acts
11 that were going on.

12 The events in this case start, as I said, in the
13 summer of 1972. At that time the Bergen County Sewer Authority
14 has raised money from several bond issues over a period of
15 years and has available for sewerage construction in Bergen
16 County across the river, across the George Washington Bridge,
17 some \$40 million. The money cannot obviously go into
18 construction immediately and is waiting around to be used for
19 construction projects. The money is invested in various
20 banking institutions, earning a rate of interest, and from
21 time to time the investment of the Bergen County Sewer
22 Authority are transferred, changed, rolled over, you will hear
23 these phrases constantly during the course of the trial, and
24 money will be, for example, one million dollars will be
25 invested in the people's bank, I think it is referred to once

hprm

7

1 during the morning's events, and that million dollars may be
2 taken out of that bank and invested in another bank at the
3 same rate of interest or higher rate of interest. The invest-
4 ment of the Sewer Authority were in something called "time
5 deposits" which is merely a phrase used which is similar to
6 the savings account books that any of us may have. While
7 some of us may have a hundred or more or less in savings
8 account, Bergen County Sewer may have their account, may be
9 a million dollars, and instead of leaving it in for years,
10 they may transfer it. That is called a "time deposit". The
11 bank owed the Sewer Authority a rate of interest, four percent,
12 five percent, six percent, and from time to time the Sewer
13 Authority would change banks in which it had its time deposits.

14 Mr. Sellarole, in the summer of 1972, was a
15 Commissioner, Chairman, Commissioner of the sewer authorities,
16 one of five or seven of them, and it is their say whether
17 which banking institution will get the funds. During the
18 summer he has a conversation with Gordon Rodney, one of the
19 co-conspirators, one of the people on the New Jersey side of
20 the transaction. During the course of the conversation when
21 they discussed various business matters, Mr. Sellarole tells
22 Mr. Rodney he is Commissioner of the Bergen County Sewer
23 Authority and is looking for places to put Sewer Department
24 deposits. Mr. Rodney, in turn, getting the message, goes to
25

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8

2 another man in New Jersey, Mr. Gorab, and tells Mr. Gorab that
3 he has a connection in the Bergen County Sewer Authority where
4 they can get public funds to transfer into banking institu-
5 tions, and Gorab and Rodney have a discussion that they can
6 make money in connection with that, they all can make money,
7 the three of them in connection with the transfer of these
8 public funds. Mr. Rodney, Mr. Gorab both get back to Mr.
9 Sellarole and agree they can make money in connection with the
10 transfer of Sewer deposits and it comes about in September
11 of 1972 the first transfer is about to take place, and Mr.
12 Rodney, Mr. Gorab rather, calls Mr. Slaitin in New York,
13 who has some banking contact in New York, and they learn the
14 Sterling Bank of New York, where Mr. Solkin is the vice
15 president, is willing to, or through the people in New York,
16 give a commission, fee, legal fee. That is a nice phrase for
17 what is really a legal bribe payment in this case, a fee of
18 \$2,500 for the transfer of one million dollar time deposits.

19 It comes about on September 22nd, a date you will
20 often hear in this case, September 22, 1972, one million
21 dollars is transferred to the Sterling National Bank in New
22 York. Again, our state lines are going to be used in
23 connection with the transfer. What happens is, someone at
24 the Sewer Commission, the bank that is the trustee of the
25 Sewer Commission money, the Garden State National Bank, they

hprm

9

have all the money but the money is held by them or accounted for by them in other banks. They do not technically have the money, they are the trustee and the trustee for the Sewer Commission calls up in New York and makes an interstate phone call, if you will. The Federal Reserve Bank and through the use of the code, it is a terrific system, some code work, they transfer a million dollars, which goes from the Garden State Bank in New Jersey to the Sterling Bank in New York, by a telephone call, one million dollars, on September 22, 1972.

A few days later it is payment time. Payment was originally \$2,500. Lo and behold, Mr. Gorab finds that the payment that he is going to be receiving from Mr. Slaitin is only \$1,250 instead of \$2,500 and he was very chagrined and disappointed. Let's follow again how the payment works in this case.

A check, which you will see for \$1,250, is written out, which is the fee for the transfer into the Sterling Bank of the one million dollar time deposit. A neighbor of Gorab's travels -- who works in New York -- picks up the check. He does not know what is in it, an envelope, picks up the check in New York, goes home, I guess, by the tunnel or bus, I forget which, goes home and sees Gorab on or about September 28, 1972. Gorab takes the check, \$1,250, and goes to the Prospect Park National Bank and cashes the check, and you will

2 see the deposit slip for \$400, a slip deposit transaction,
3 takes \$400 of the check, deposits it in his fiancée's account
4 and takes the remaining \$850. There is a meeting that night,
5 on September 28, 1972, between Mr. Rodney, Mr. Gorab, Mr.
6 Sellarole and his son, George Sellarole at Lavene's Bar in
7 New Jersey, and on September 28th they talk about cattle deals,
8 other deals, but during the course of the conversation, Gorab
9 goes into the bathroom with Mr. Sellarole's son, George
10 Sellarole, and in the bathroom he gives him some \$800,
11 Sellarole's son. George Sellarole and Gorab go back to the
12 conversation, and Robert Sellarole asks, "Is everything okay",
13 and George and they all nod their heads.

14 After the transfer of the \$800 legal fee to Mr.
15 Sellarole, there is a discussion about three million dollars
16 more, which the Sterling Bank would like to have, and they
17 talk in terms of another \$2,500 for another transfer, of the
18 public funds of the Sewer Commission. Mr. Gorab was married
19 on October 1st, and while at his wedding he has a conversation
20 with an individual whose name you have heard before, Herbert
21 Olsberg. Mr. Gorab, Mr. Olsberg and Mr. Gorab's mother have
22 a conversation how they could get money from New York for the
23 fees and the time deposits coming over the state lines and
24 to be transferred in the New York time account.

25 On October 2nd, Olsberg has another conversation

1 hprm

2 with Gorab, who is just about to take off for the South. On
3 October 3rd and October 4th, two checks come across the state
4 line to Mr. Gorab. One in the amount of \$1,050 and another
5 one in the amount of \$1,450, signed by Mr. Lamont whom I have
6 mentioned before. They are given to Mrs. Gorab by Olsberg.
7 Mrs. Gorab, a few days later, cashes the checks and has
8 available to make payment to Rodney -- she does not know Mr.
9 Sellarole, she knows Rodney, she is in the middle of the
10 transaction for purposes of payment -- cashes the checks, she
11 has \$2,500. She calls Mr. Rodney on the phone, Mr. Rodney
12 comes to Gorab's parents' home on or about October 6, 1972,
13 and receives \$1,875. Rodney tells Mrs. Gorab the way the
14 pie is being cut is that his man, he does not say who, is
15 getting half of it, 1,250, and he is getting -- splitting with
16 Gorab the other half which comes to 625, and Rodney and
17 Sellarole's part of the transaction add up to \$1,875, and Mrs.
18 Gorab keeps \$625 as her son's share of the money. Indeed,
19 you will see a receipt Mrs. Gorab had when her son was away
20 which shows Mr. Rodney signing for the \$1,875.

21 Mr. Rodney that day or a few days later meets with
22 Robert Sellarole at Adam's Diner in New Jersey, and in the
23 bathroom hands Robert Sellarole \$1,250, his half share of the
24 \$2,500 payment. Unfortunately or fortunately, whatever, the
25 Bergen County Sewer Authority does not transfer the second

1 hprm

12

2 one million dollars in return for the payment of the 2,500.

3 You will remember in the bar, there was a discussion
4 about three million dollars in additional transfer after the
5 September 22nd transfer to Sterling. None of the additional
6 transfers take place. There will be discussions that you
7 will hear about in October and November, about when is the
8 Sewer Commission going to transfer the additional amounts of
9 money. On October 16, 1972, Olsberg meets for the first, or
10 rather discusses for the first time with Gordon Rodney, who
11 is introduced by Mrs. Gorab, speaks to Rodney on the phone.
12 That conversation is recorded. You have from Rodney's mouth
13 to Olsberg for the first time reported what the mechanics
14 of the transaction are. I won't bother you by repeating them,
15 they are pretty much what I have said, the additional three
16 million more and how the deal is supposed to work.

17 Let me explain something about the telephone
18 recordings and other recordings Olsberg made. When he was on
19 the telephone, there was recording equipment placed on the
20 phone with his consent which, at the time the call was being
21 made, Mr. Fleischer and other agents of the FBI were standing
22 there and heard word-for-word what could be heard over the
23 telephone, Olsberg and Rodney speaking. They made recordings
24 of that, and you will be able to hear those recordings which
25 will be played for you.

hprm

13

1 When Mr. Olsberg went into a meeting later, which
2 I will tell you about with Mr. Sellarole, he did not bring Mr.
3 Fleischer with him. He and another agent was -- Mr. Olsberg
4 wore around him a battery, radio transmitter with a battery
5 pack and an antenna ran up his chest which was transmitted
6 through walls, through traffic noise and other things to Mr.
7 Fleischer, who would be standing a distance back unseen,
8 unknown by Mr. Sellarole and Mr. Rodney, and Mr. Fleischer
9 would be recording with recording equipment, the conversation
10 as it was taking place then and there.
11

12 On the 16th Mr. Olsberg speaks to Mr. Rodney. Mr.
13 Solkin calls the Bergen County Sewer Authority asking for his
14 money; after all, 2,500 was being paid for and no transfer
15 takes place. Nobody is supposed to call up and talk about
16 these things, these things are done in mens' rooms and there
17 is a discussion which you will hear between Mr. Rodney and
18 Mr. Olsberg about how Mr. Solkin is upsetting everything and
19 the heat is on in connection with the payments that have
20 already gone down.

21 Mr. Rodney also has a discussion with Mr. Sellarole.
22 This is not recorded because Mr. Rodney is not a Government
23 agent, but he will take the stand telling you more or less the
24 same thing that he told Olsberg, that Sellarole was worried
25 about the call from Mr. Solkin and they had to be very careful,

1 hprm

2 Sellarole did not want to deal with any of the other people,
3 Rodney was his man.

4 On October 31, 1972, Olsberg meets for the first
5 time Sellarole. There is a recorded conversation in Mr.
6 Sellarole's office about the time deposits. You will be able
7 to be at that conference and we will all be able to hear Mr.
8 Sellarole tell Mr. Olsberg and Mr. Rodney that, indeed, they
9 can all work together in connection with the time deposit
10 transaction. Rodney says at one time in the conversation,
11 "Bob" --

12 MR. GALLUCCIO: I object if the Court pleases.
13 The prosecutor is summing up.

14 THE COURT: I think you are going into too much
15 detail. Can't you make a broader outline?

16 MR. SAGOR: Yes, your Honor.

17 You will hear, I may not tell it to you now, but
18 you will hear them talking about the time deposits, the next
19 deposit that hasn't taken place, on October 31, 1972, and
20 you will hear that in March 1973, Mr. Sellarole solemnly tells
21 the grand jury in New York that he never had a discussion with
22 Mr. Gorab concerning time deposits, never received a fee in
23 connection with time deposits, never had a discussion with
24 Mr. Rodney concerning another time deposit, never had such
25 discussion and never discussed with Mr. Olsberg having anything

1 hprm
2 to do with time deposits. Olsberg has another meeting with
3 Sellarole on November 9th at which the subject comes up again,
4 and that conversation will be similar to the October 31st
5 conversation.

6 He meets again for the third time with Sellarole
7 and the subject of time deposits comes up, and in that con-
8 versation you will hear Mr. Sellarole tell you electronically
9 that he was asked by Gorab to give him money back and had a
10 discussion about the receipt of \$1,250. Mr. Sellarole, in
11 the grand jury, denied receiving anything about time deposits
12 or any discussion about time deposits. This is very briefly
13 the evidence in the case.

14 Indeed, there will be additional evidence presented
15 to you. Bear in mind some of the Government witnesses here
16 were the very participants in the scheme with Mr. Sellarole.
17 They themselves committed crimes as did Mr. Sellarole, and
18 they indeed have intimate knowledge of what happened here
19 because they participated with the defendant.

20 His Honor has mentioned what kind of evidence there
21 is. There is the statement of the witnesses on the stand
22 and documentary evidence. Let me emphasize again practically
23 all the evidence in this case, upon which this indictment is
24 based, is based upon corroboration of electronic recordings.
25 You are able to hear in this case, as you sit there, exactly

1 hprm

2 what happened as recorded from this defendant's mouth.

3 Members of the jury, as his Honor has told you,
4 use your common sense throughout the proceedings, don't make
5 up your mind until the very end, this is what both sides want
6 in this case, a fair trial with respect to both sides.
7 However, it is submitted to you when you consider all the
8 evidence in this case as presented by the Government, indeed
9 by both sides, you will find this defendant beyond any
10 reasonable doubt guilty of the crimes of perjury, willfully
11 lying under oath to the grand jury, and receiving the illegal
12 payments, and indeed being involved in a criminal conspiracy
13 to misuse his public office in the transfer of public funds
14 for his own personal benefit.

15 Thank you.

16 MR. GALLUCCIO: If it pleases the Court. Madame
17 Forelady, members of the jury. I sat through the prosecutor's.
18 U. S. Attorney's opening in this case, and I guess if we could
19 say to ourselves, if that is all there were to it, then there
20 will be very little need for juries such as yourselves to
21 determine the ultimate issue in this case. I do not think,
22 members of the jury, it is quite that simple.

23 I heard the Court initially when the Court cautioned
24 you about how things are said by different people, the
25 impression they obtain when certain matters are discussed.

1 hpal

Rodney - direct

21

2 A All right.

3 Q Mr. Rodney, are you presently employed, sir?

4 A No.

5 Q Are you engaged in any gainful employment at the
6 present time?

7 A Odd jobs at the moment.

8 Q Mr. Rodney, directing your attention to the spring
9 and summer of 1972, how were you employed, sir?

10 A As a used construction equipment broker.

11 Q Will you explain to the members of the jury what a
12 used construction equipment broker is?

13 A He is a function who will assist a contractor
14 perhaps, who has construction equipment, may want to sell part
15 of it or all of it. I would go there, help the man appraise
16 and give him an idea what his equipment is worth and then
17 take it upon myself to try and find that man a buyer to buy
18 that equipment and by the same token may have a contractor
19 looking for used equipment and then in turn I will try to then
20 find sources for him to buy used equipment and, another func-
21 tion, equipment broker may get called in if a construction
22 company goes bankrupt, the receiver may call him in to appraise
23 the equipment and then may even say, sell it to him. That is
24 basically the function.

25 Q In connection with your function in this business,

1 hpal Rodney - direct 22

2 did there come a time in the summer of 1972 when you met
3 for the first time Robert Sellarole?

4 A Yes.

5 Q Will you tell the members of the jury to your best
6 recollection, when this first occurred, when you met Mr.
7 Sellarole?

8 A As you say, in the summer --

9 MR. GALLUCCIO: Objection, your Honor. It is as
10 the witness say, not the prosecutor.

11 THE COURT: Yes.

12 A In the summer of 1972.

13 Q Where did they occur?

14 A At Laneve's Restaurant.

15 Q Who else was present at Laneve's Restaurant when
16 you first met Mr. Sellarole?

17 A Just Mr. Sellarole and myself.

18 Q Will you tell the members of the jury very briefly
19 how this meeting came about?

20 A I had known Mr. Sellarole's son George, a casual
21 acquaintance so to speak, and he learned I was in the
22 equipment business, and he knew I knew of sources of soil
23 and gravel and he mentioned that his dad was in the construc-
24 tion business relative to site work, earth removal, earth
25 fill and I mentioned two sources, two locations rather, of

* * *

Rodney - direct

25

1 hpal
2 chore, daily assignment, whatever, and it was taking up a
3 lot of his time. In this conversation, I had mentioned to
4 Mr. Sellarole that I had been interviewed by Mr. Gorab and
5 for whom I was going to commence employment on September 1st,
6 '72 and that I was getting out of the equipment brokerage
7 business and the nature of Mr. Gorab's work was that of
8 mortgage brokeraging and he had worked at it and now was
9 going to form his own mortgage brokerage firm and I was
10 interviewed at my home by Mr. Gorab and I relayed this infor-
11 mation to Mr. Sellarole, that I was starting this new employ-
12 ment.

13 I said Mr. Gorab having been in the finance
14 business and now starting his own, it might be helpful in
15 rolling and locating time deposit transfers.

16 Q What if anything did Mr. Sellarole then say?

17 A He said, "I'm sure this would be helpful".

18 Q Did there come a time after the conversation that
19 you spoke to Mr. Gorab?

20 THE COURT: Before you leave the conversation, you
21 referred to having this talk with Mr. Robert Sellarole. Do
22 you see the man in the courtroom?

23 THE WITNESS: Yes.

24 THE COURT: This is your function, not the court's,
25 you know.

1 hpal

Rodney - direct

26

2 MR. SAGOR: Yes, your Honor.

3 Q Do you see Mr. Sellarole in the courtroom?

4 A Yes.

5 Q If he is present in the courtroom, would you identify
6 him and state what he is wearing?

7 A He is sitting next to Mr. Galluccio, his attorney.

8 MR. GALLUCCIO: The record will reflect --

9 Q Did there come a time after meeting Mr. Sellarole
10 that you had a conversation with Mr. Gorab?

11 A Yes.

12 Q How did that conversation take place?

13 A By telephone. I called Mr. Gorab possibly that
14 night or possibly the next day, I'm not certain, and informed
15 Mr. Gorab of my conversation with Mr. Sellarole concerning
16 the cattle and the time deposits of the Sewer Authority.

17 Q What did Gorab say?

18 A He became enthusiastic very immediately on both
19 matters and he said Gordon, see if you can make an arrange-
20 ment on this cattle matter in particular, and he says I'm
21 sure I can do something with my connections in New York City
22 concerning the roll over of time deposits.23 Q After speaking to Gorab on the telephone, did there
24 come a time when you spoke to Mr. Sellarole again?

25 A Yes.

* * *

* * *

1 hpal

Rodney - direct

28

2 work for, the mortgage broker and he told me that there should
3 be no problem in finding sources for him to transfer the
4 time deposit and that there would be fees involved. And he
5 said good, sounds helpful and he said but Ron, I'm only
6 going to be talking with you, I'm going to get involved with
7 all sorts of people I don't know and so forth.

8 I said that can be arranged and he said if you
9 want to see me call me on the phone and we will meet. And,
10 he showed me a list of dates, names of banks, quantities of
11 money, the dates being dates that the certificates of deposit
12 came due and were due to be renewed or transferred to another
13 bank for a better rate of interest, whatever, and he said
14 very basically when you know of a source who will pay a
15 good rate of interest, prime or better, as I recall, the
16 procedure would be that I would provide him with the name of
17 the bank, he would negotiate the rate of interest with the
18 bank, it would be brought up at a regular meeting of the
19 Authority, and he would recommend here is a good rate of
20 interest and recommend that it be taken.

21 From that point on, as I understand it, I was
22 never involved --

23 MR. GALLUCCIO: I object, your Honor.

24 THE COURT: Objection sustained.

25 Q Are you relating a conversation Mr. Rodney that Mr.

1 hpal

Rodney - direct

29

2 Sellarole told you?

3 A Yes.

4 He said to me at that point once it was agreed by
5 the bank the bank would be instructed to contact a Mr. Guido,
6 the Treasurer of the Sewer Commission, and the mechanical
7 paper work would be taken place and the transfer would be made

8 Q Is that the conversation that occurred at the
9 Trolley Diner with Mr. Sellarole as best you remember?

10 A Yes.

11 Q After speaking to Sellarole at the Trolley Diner
12 whom did you next contact?

13 A When I left the Trolley Diner I went to Mr. Gorab's
14 parents' home, that's where Mr. Gorab was living at the time,
15 and I went over the situation in the conversation I had with
16 Mr. Sellarole at the Trolley Diner.

17 Q Before you tell us about that, can you tell us
18 what the address was, at Gorab's parents' house, or where it
19 was, so --

20 A Monroe Street, Wyckoff, New Jersey. The house
21 number I don't know.

22 Q Directing your attention to the time that you met
23 Mr. Gorab at his parents' house, can you tell us when this
24 occurred?

25 A The same day, immediately following the meeting at

1 hpal Rodney - direct

2 the Trolley Diner, the same day.

3 Q Is this in July 1972?

4 A I would venture to guess July, yes.

5 Q Who else, if anyone was present at Gorab's parents'
6 house?

7 A No one. Just he and I.

8 Q Was there a conversation?

9 A Yes.

10 Q Can you tell us to the best of your recollection
11 who said what during this conversation with Gorab?

12 A I said to Jimmy in detail exactly the conversation
13 I had with Mr. Sellarole at the Trolley Diner.

14 Q Please tell us exactly what you said as best you
15 can recollect.

16 A I said, "Jimmy, here is a list that was given to
17 me." He took the list and looked at it and said, "Very,
18 very good Gordon, this should be worth money."

19 Q What else did he say, if anything?

20 A He made a phone call while I was having coffee in
21 the kitchen.

22 Q To your knowledge, do you know where he called, if
23 he said? If you don't know, don't tell us.

24 A He dialed a number and he began conversing on the
25 telephone and he referred to the man as Herb, and he described

31

A Yes. I don't know how long after that, it wasn't

1 lpal

Rodney - direct

32

2 too long, I talked with Jim Gorab on the phone and he said
3 see if we can arrange --

4 MR. GALLUCCIO: May we establish a time, your Honor,
5 and matter of hours or --

6 THE COURT: Yes.

7 A It would be days, I would say. He asked me to
8 arrange for a meeting with Mr. Sellarole --

9 THE COURT: Who asked you?

10 THE WITNESS: Jim Gorab.

11 A (Continuing) -- to arrange for a meeting with Mr.
12 Sellarole on the cattle situation. I said, "All right Jimmy
13 let me see what I can do." I contacted Mr. Sellarole,
14 arranged to have a meeting at the Holiday Inn on Route 4 and
15 I believe the town is Little Ferry.

16 Q In Jersey?

17 A New Jersey. The meeting was held, I picked Jim up
18 at his home and we proceeded -- we went to the Holiday Inn
19 on Route 4, met Mr. Sellarole. Jim had brought along a sub-
20 stantial file in his attache case, a lot of figures and infor-
21 mation on cattle ranches and taps , write-off programs that
22 can be accomplished with the raising of cattle and the meeting
23 lasted about an hour, but there was great detail discussed on
24 this cattle situation. No other matter was discussed, as I
25 recall. And, a meeting was arranged for a Sunday morning for

hpal

Rodney - direct

33

the three of us to go to Sussex County and actually make a physical review of this cattle farm.

Q Did there come a time that you did make a physical review of the cattle farm?

A Yes.

Q When did this occur to the best of your recollection?

A I would say we are now into August.

Q Where did you go?

A We went to a farm about ten minutes outside of the town of Newton, New Jersey.

Q How many did you go with, if anyone?

A With Mr. Sellarole and Mr. Gorab.

Q What happened then?

A When we arrived at the farm?

Q Yes, briefly.

A Yes. We arrived at the farm. Mr. Sellarole pointed out a particular section of the farm that he had hopes of building one family homes on, getting a subdivision. We actually went out into the field, into the barns and made a physical count of the cattle, and that was in essence the visit.

Q Do you remember if time deposits was discussed?

A No, they were not.

Q Did there come a time in September of 1972, that you

1 hpal Rodney - direct 34

2 had a discussion with Mr. Gorab?

3 A Yes.

4 Q Can you tell us when in September, if you remember?

5 A It would be around the middle of the month.

6 Q Who called who, Mr. Rodney, if you remember?

7 A Yes. Mr. Gorab called me.

8 Q What did he say to you on the telephone?

9 A He said, "Gordon, I have a time deposit transfer

10 we can do, to the Sterline Bank in New York City, and that

11 will pay a \$2,500. fee for a one million dollar transfer."

12 Q What if anything did you say to Mr. Gorab when he

13 told you that?

14 A I said, "All right, I'll relay the information to

15 Mr. Sellarole."

16 Q Then what did you do, if anything?

17 A Yes. I had a telephone conversation with Mr.

18 Sellarole and we agreed to meet at Adam's Diner in Saddle

19 Brook, New Jersey.

20 Q You said you had a telephone conversation. What

21 did you say on the telephone to Mr. Sellarole and what did he

22 say to you as best you can remember?

23 A I simply called him up and said, "Bob, I would like

24 to see you, I have some information for you."

25 Q What did he say?

1 hpal Rodney - direct

35

2 A He said all right and we agreed meeting at Adam's
3 Diner.

4 Q The meeting occurred at Adam's Diner?

5 A Yes.

6 Q Would you tell us where Adam's Diner is?

7 A Saddle Brook, New Jersey, Market Street.

8 Q To the best of your recollection when did this
9 meeting with Sellarole take place?

10 A One or two days after the phone call from Gorab
11 telling me he had the time deposit transfer set up with
12 Sterling Bank.

13 Q This is sometime one or two days after the middle
14 part of September?

15 A Yes.

16 Q Did a meeting take place?

17 A Yes.

18 Q Who else was present if anyone?

19 A No one.

20 Q You and Mr. Sellarole?

21 A Yes.

22 Q To the best of your recollection, who said what?

23 A We sat at the counter, had coffee. I told Mr.
24 Sellarole the situation on Sterline Bank, gave him the name
25 of the bank, name of the party to contact at the bank. I

1 hpal Rodney - direct
2 mentioned the fee that I was told would be paid, told to me
3 by Gorab.

4 Q What did you say?

5 A I told him Mr. Gorab told me there would be a
6 \$2,500. fee available.

7 Q What did Mr. Sellarole say?

8 A He said good, and we will split. I said yes, you
9 will get half and I will get half, half of mine going to Mr.
10 Gorab.

11 Q Where, if any place, did you say the money would
12 be coming from?

13 A From New York.

14 Q What, if anything, did Mr. Sellarole then say?

15 A He said all right, I will go to work on it

16 Q Did there come a time in September that you had an
17 additional conversation with Mr. Gorab after you talked to
18 Mr. Sellarole at the Adam's Diner?

19 A Yes.

20 Q Who called who?

21 A Mr. Gorab called me.

22 Q What did he say to you?

23 A He said, "Gordon, the money is in," meaning the fee.
24 I said, "All right, when do you want to meet with Mr.
25 Sellarole." He said -- I believe he said to set it up for the

1 hpal Rodney - Direct 37

2 following evening.

3 Q Which would make it when, in time?

4 A Late September.

5 Q After Gorab told you the money was in did you
6 thereupon speak to Mr. Sellarole?

7 A Yes.

8 Q How did you speak to Mr. Sellarole?

9 A I called Bob. I said, "I think we should meet at
10 Laneve's Restaurant about 7:30, 8:00 p.m."

11 Q Did there occur in late September, 1972, in the
12 evening, a meeting at Laneve's Restaurant?

13 A Yes.

14 Q Is this the Laneve's Restaurant you have previously
15 referred to, an earlier meeting?

16 A Yes.

17 Q What time did you arrive at Laneve's Restaurant?

18 A I probably arrived about seven. I was the first
19 one there.

20 Q Who came in next?

21 A Mr. Sellarole and George Sellarole, his son.

22 Q Did there occur a conversation between you, Robert
23 Sellarole and his sone? By the way, do you remember the
24 name of his son?

25 A George.

1 hpal Rodney - direct

2 Q Would you tell us whether there was a conversation?

3 A Just general conversation. I remember the cattle
4 farm being mentioned. Nothing in particular, just a very
5 general social conversation.

6 Q Did there come a time later that evening in late
7 September at Laneve's that Mr. Gorab appeared?

8 A Maybe another ten or fifteen minutes after Mr.
9 Sellarole had arrived.

10 Q Was there a conversation at the point Mr. Gorab
11 appeared between the four of you or any number of you?

12 A Yes.

13 Q Would you tell us that conversation and who said
14 what?

15 A Once again, Mr. Gorab went into great detail and
16 for quite a while again on this matter of cattle. That was
17 the bulk of the conversation.

18 Q Then what happened, after the discussion about
19 cattle?

20 A Mr. Gorab made a gesture with his hand to his
21 pocket.

22 Q Don't let me interrupt you. Just tell us as it
23 happened, Mr. Rodney.

24 A Then Mr. Gorab got off his chair and left the room
25 and so did George Sella-ole.

1 lpal

2 Q Can you tell us to the best of your recollection
3 who said what?

4 A Mr. Gorab spoke up and said, do you think another
5 three million dollars could be transferred, not necessarily
6 all at once. Mr. Sellarole said yes, I think we can work on
7 that and Jim said all right, will you call me tomorrow to
8 give me some information on it. Bob said yes. Jim said fine
9 and this pretty much was the end of our meeting.

10 THE COURT: Jim is Mr. Gorab and Bob is Robert
11 Sellarole, the defendant?

12 THE WITNESS: Yes.

13 Q Where, if any place -- what if any mention was made
14 of the Sterling Bank?

15 A Yes. Jim Gorab mentioned that Sterline would like
16 to have another three million dollars.

17 Q Is this the three million dollars you have just
18 referred to?

19 A The same three million.

20 Q After this conversation concerning the three million
21 and the Sterling Bank, was there any further conversation?

22 A No, that was just about the break up of the meeting.

23 Q How did the meeting break up?

24 A Well, you know, friendly.

25 Q I meant who left first?

1 hpal

Rodney - direct

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2 A We left probably a half a minute apart. George
3 Sellarole and Bob Sellarole left to the rear through a side
4 door and Jim Gorab and myself exited through the front door,
5 out to the sidewalk.

6 Q Did a conversation occur between yourself and
7 Gorab on the sidewalk outside Laneve's Restaurant?

8 A Yes.

9 Q Will you tell us that conversation to the best of
10 your recollection?

11 A Yes. I said to Jim, it's a heck of a thing to make
12 a commitment and say you have a \$2,500. fee and then at the
13 day when everything takes place you tell me they only sent
14 you over \$1,250. I said you're going to have to know the
15 people you're dealing with, that they do what they say they
16 are going to do. He agreed and he said I'm sure it won't
17 happen again and we shook hands and said good night and went
18 home.

19 Q Then what happened?

20 A The following -- yes -- the next day I had one or
21 two, possibly three telephone conversations with Mr. Gorab,
22 him calling me and perhaps me returning one of the calls.
23 He was a little but upset, said he had placed a call to Mr.
24 Sellarole, left a message at the answering service, he said
25 he had received no return call and the people related to the

1 hpal Rodney - direct. 42

2 Sterling Bank on the three million bank were waiting to see

3 what type of information he had as to dates of transfer, if

4 it could be found out.

5 Q Then what happened?

6 A I said, "Jimmy, I don't know, I'm sure this man

7 knows what he is doing, probably has other things to do, maybe

8 he didn't get your message." The young man was quite irate

9 and I think unreasonable but anyhow --

10 Q Tell us what you said and he said. If you said he

11 was being unreasonable, tell us that, but if you --

12 A He said, "I'm sitting here all day long, I could

13 have gone out to do something, I don't know why Bob didn't

14 call me," and I said, "Jim, I'll get in touch with Bob tonight

15 to see if I can't see him tomorrow morning."

16 Q Did you get in touch with him?

17 A I called Bob on the phone and I said could we have

18 coffee tomorrow morning. He said yes and we selected the

19 Oakland Diner, Route 202 in Oakland.

20 Q In New Jersey?

21 A Yes.

22 Q When did this meeting with Mr. Sellarole take place

23 in the Oakland Diner?

24 A Saturday morning before Jim Gorab's wedding.

25 Q And what did he say and what did you say?

1 hpal

Rodney - direct

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2 A I asked Bob if he had any information on the three
3 million dollars, and that Jimmy and Gorab wanted me to call
4 him. He said, "It's being worked on, we have roll overs
5 coming up" and that is the extent of the information Bob
6 could give me.

7 I went to the phone and called Jim Gorab. I told
8 him Bob just told me he is working on it. Well, he went
9 into -- he screamed. He didn't curse but he screamed in the
10 form of a tantrum, "I sat here all day yesterday, that's no
11 kind of an answer". I tried to calm him down and tell him
12 this is not the way to conduct yourself. And he was getting
13 me annoyed. I couldn't get him calmed down and in fact I
14 could hardly distinguish words on the phone, he was screaming
15 so loudly.

16 MR. GALLUCCIO: Is this Mr. Gorab we are talking
17 about?

18 THE WITNESS: Yes.

19 A (Continuing) In any event, I got the conversation
20 ended with him and returned to the booth with Mr. Sellarole.
21 We finished our coffee and I said, "Bob, when you have infor-
22 mation give me a call and we can meet again."

23 Q What if anything did you tell Mr. Sellarole upon
24 returning from your conversation with Gorab?

25 A What I just said now.

hpal

Rodney - Direct

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Q Did you tell Mr. Sellarole to your recollection what your conversation with Gorab was?

A No, I didn't even describe it.

Q Did there come a time that you attended Gorab's wedding?

A Yes, the following day.

Q Do you remember when that occurred?

A October 1st, '72.

Q Was there any discussion at the wedding with Gorab that you had concerning these public funds?

A At the very end of the reception, his mother and father came over to the table where my wife and I were seated, and another couple, and Jim Gorab was getting ready to leave with Linda and --

MR. GALLUCCIO: Linda being his wife?

THE WITNESS: His newly wed wife, yes.

A (Continuing) And I stepped a few feet removed from the table where his parents and my wife were sitting and he said, "Gordon, follow up on the three million dollar transfer for Sterling National Bank and if you have any information or get any information call my mother, Jean Gorab, she knows what to do and who to call."

Also at that point, I was stretched very tightly financially. I said, "Jimmy, you're going to be away for two

1 hpal

Rodney - direct

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2 AFTERNOON SESSION

3 2:00 P.M.

4 DIRECT EXAMINATION CONTINUED

5 BY MR. SAGOR:

6 THE COURT: Please proceed. What's going on here.

7 I don't want any activity here while the witness is on the
8 stand.

9 MR. SAGOR: The technician is putting in wires.

10 THE COURT: He will have to stop. I don't want any
11 interference.12 MR. SAGOR: I didn't intend him to go on while the
13 witness is testifying, your Honor.

14 THE COURT: Please sit down. Let's get started.

15 Q Mr. Rodney, before the luncheon break you were
16 telling us about the hundred dollar check of Exhibit 1,
17 which you cashed on or about October 2nd, 1972.

18 A Yes.

19 Q Directing your attention, sir, to early October
20 1972, did there come a time when you had a telephone conver-
21 sation with Mrs. Jean Gorab?

22 A Yes.

23 Q When did that occur?

24 A Approximately one or two days after the matter of
25 cashing the check. She called me at my home in the evening

1 hpal

Rodney - direct

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2 and she said she had received a check for \$2,500., delivered
3 by a man from New York.

4 MR. GALLUCCIO: Your Honor, may we establish which
5 Mrs. Gorab --

6 THE WITNESS: Jim Gorab's mother, I'm sorry, Mrs.
7 Jean Gorab, Jim Gorab's mother, one or two days after my
8 cashing the \$100. check she called me at my home in the
9 evening and she said, "Gordon, I have received a twenty five
10 hundred dollar check delivered to the house by a man from
11 New York."

12 Q Then what happened? What, if anything, did you
13 say to her?

14 A I said, "Jean," I said, "I don't know what it's all
15 about, don't cash the check." "You are going to have to wait
16 until you hear from Jimmy either by phone while he is on his
17 honeymoon or until he comes home." That was the end of the
18 conversation.

19 Q What happened?

20 A Mrs. Jean Gorab called me again the following day
21 and she said, "Gordon, I talked to the people in New York
22 and they said it's all right, go ahead and cash the check."

23 Q Is that the end of the conversation?

24 A No. I said, "How can you cash the check if it's for
25 Jimmy." She said, "Well, the check is made out J. Gorab and

1 hpal

Rodney - direct

2 I'm a J. Gorab." I said, "Well, that's up to you, Jean,"
3 and that was the end of the conversation.

4 Q Did there come a time thereafter that you spoke to
5 Robert Sellarole in the early part of October 1972?

6 A Let me think. You mean right at this same time we
7 are discussing now?

8 Q Yes.

9 A I believe there were two phone calls related to
10 this \$2,500. check, to Bob, and he said he couldn't understand
11 why the \$2,500. was sent over, the same as I couldn't under-
12 stand.

13 Q What else was said, if anything?

14 MR. GALLUCCIO: May we establish a time for this
15 alleged conversation?

16 THE COURT: Yes.

17 THE WITNESS: Approximately the 4th or 5th I would
18 imagine.

19 THE COURT: Of when?

20 THE WITNESS: October, 1972.

21 Q What did he say, if anything, other than what you
22 have already testified to?

23 A That was it.

24 Q Did there come a time on or about the 6th of
25 October, 1972, when you saw Mr. Gorab?

1 hpal

Rodney - direct

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2 A Yes, at her home in the evening.

3 Q Would you tell us again where that place is?

4 A On Monroe Street, in Wyckoff, New Jersry.

5 Q On or about October 6th, 1972, who else was present?

6 A Mr. Gorab, Jim's father. Both his parents.

7 Q Will you tell us what was said, sir?

8 A Yes. She had cashed the check and it was counted
9 out, there was \$2,500. I took twelve hundred fifty and six
10 hundred twenty five dollars. She asked me to sign a receipt
11 for that amount, and I signed the receipt and I left.

12 Q I show you what has been previously marked Govern-
13 ment's Exhibit 2 for identification.

14 A Yes, that's the receipt.

15 Q How can you identify that, Mr. Rodney, as the
16 receipt?

17 A It has my signature on it.

18 Q Does it have the amount of money on that?

19 A Received \$1,865., October 6th, '72.

20 Q Is there other writing on that receipt?

21 A There is a notation count in the corner.

22 Q Don't read it. Is there other writing on the
23 receipt?

24 A Yes.

25 Q Whose writing is that, do you know? Not on the

1 hpal Rodney - direct
2 bottom right-hand corner. In the middle.

3 A Mrs. Jean Gorab.

4 MR. SAGOR: Your Honor, Exhibit 2 for identification
5 is offered with the exception for the initial on the bottom
6 on the right-hand corner.

7 MR. GALLUCCIO: I have no objection.

8 (Government's Exhibit 2 marked for identification,
9 received in evidence.)

10 MR. SAGOR: Your Honor, may I briefly pass this to
11 the jury?

12 THE COURT: Yes. (handed to the jury.)

13 Q Mr. Rodney, after receiving the eighteen hundred
14 seventy five dollars on or about October 6th, at Mrs. Gorab's
15 house, what did you then do?

16 A I contacted Mr. Sellarole by telephone and arranged
17 to meet him in Adam's Diner, Market Street, Saddle Brook,
18 New Jersey.

19 Q Did you have a telephone conversation with respect
20 to arranging for the Adam's Diner meeting?

21 A Yes.

22 Q Would you tell us what he said and what you said as
23 best you remember?

24 A I said, "Bob, I would like to meet you, I have
25 something." He said all right and we agreed upon meeting at

1 hpal Rodney - direct

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2 the Adam's Diner.

3 Q Did there come a time when you met Mr. Sellarole
4 at the Adam's Diner?

5 A Yes.

6 Q To the best of your recollection, what date was that?

7 A That would be in the neighborhood of the 7th to 9th,
8 I would say.

9 THE COURT: Of October?

10 THE WITNESS: Of October 1972.

11 Q Directing your attention to the Adam's Diner, during
12 that time period, did you meet Mr. Sellarole?

13 A Yes.

14 Q Who else was present?

15 A Just he and I.

16 Q What was said?

17 A We had a general conversation over coffee at the
18 counter. When we finished, I said let's go to the men's
19 room. We went to the men's room, I handed him twelve fifty,
20 we left, got into our respective automobiles and drove off.

21 Q Was there any conversation in the men's room?

22 A None. Well, nothing to speak of, no, just general
23 conversation.

24 Q What's the general conversation? Again, Mr. Rodney,
25 you have to tell us who said what. If there was no --

1 hpal

Rodney - direct

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2 A How his son was doing, how the Hackensack football
3 team was doing, his son played on the team. We were in
4 there perhaps fifteen seconds.

5 Q In the men's room?

6 A Yes.

7 Q You were talking about the Hackensack football team?

8 A Yes, in and out.

9 Q Then what happened?

10 A We left. We went outside, got in our cars and
11 drove off.

12 THE COURT: Was this the \$1,250. that you say you
13 received previously from Mrs. --

14 THE WITNESS: Jean Gorab, yes.

15 Q Was that \$1,250. in cash?

16 A Yes.

17 Q Were those the same bills that you received from
18 Mrs. Gorab?

19 A Same bills.

20 Q What, if anything, did you do with the \$625.?

21 A I retained that for myself.

22 Q Did there come a time after on or about October 9,
23 1972 that you received a call from Jean Gorab?

24 A It was later than that, a few days later than that,
25 closer to the 15th of the month. I was on the road in Sussex

1 hpal Rodney - direct 54

2 County and a customer of mine, Hamburg Quarries, Hamburg,
3 New Jersey, I stopped in there and as I walked in the office
4 the gentleman who ran the office said, "Gordon, call your
5 wife at home, it's very urgent." I called home and Mary said
6 Mrs. Gorab called, she sounded excited, that I should get in
7 touch with you so you could call her at work.

8 I called her at work and she said, Gordon, a Mr.
9 Sorkin from the Sterling National Bank in New York called me,
10 wanted to know where his three million dollars is, and stated
11 to her that he had called the Sewer, Bergen County Sewer
12 Authority and said they said they told him they knew nothing
13 about any three million dollars to be transferred to the
14 Sterling National Bank.

15 Q What, if anything, did you then tell Jean Gorab?

16 A I said to Mrs. Gorab, "Don't get excited, I'll
17 call Mr. Sorkin personally right now." We hung up, I called
18 Mr. Sorkin at the Sterling National Bank.

19 Q How did you reach him?

20 A Through information and dialed the number.

21 Q Where were you at the time?

22 A Still at the quarry in Hamburg, New Jersey.

23 Q Did you have a conversation with Mr. Sorkin?

24 A Yes. Mr. Sorkin got on the phone. I told him who
25 I was, I said I'm Gordon Rodney, a friend of Mr. Gorab's. I

1 hpal

Rodney - direct

2 said -- I told him I'm in the quarry in Hamburg, New Jersey,
3 will you please call me at home this evening and that was
4 the end of the conversation. He said all right. I gave him
5 my home phone number and I hung up.

6 Q Then what happened?

7 A That evening Mr. Sorkin called me at home about
8 seven o'clock, and I said Mr. Sorkin, I said, there is nothing
9 to worry about, this is being worked on but please don't make
10 any phone calls. I said our people will contact you. I
11 made it a brief conversation but I made that point in the
12 conversation.

13 Q What, if anything, did he say?

14 A He said all right, I'll be waiting to hear from you.

15 Q After you spoke to Mr. Sorkin, did there come a time
16 on October 15, 1972 that you spoke to someone who identified
17 himself as Herbert Olsberg?

18 A Yes, on a Sunday evening the 15th I did receive a
19 call, he identified himself as Herbert Olsberg a friend of
20 James Gorab and he said I'm the man who brought that thing
21 to Jimmy. I knew what he meant. And he said I have to talk
22 to you. I said, well I'm at home right now, the family is
23 home, give me a call in the morning and I gave him a number
24 outside of my home, for him to call me the following morning.

25 Q Did there come a time on October 16, the following

1 hpal

Rodney - direct

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2 morning that you received a call from Olsberg?

3 A Yes. He called me as we had arranged, and I went
4 into detail, explaining to him the danger of the phone call
5 received -- made by, rather, Mr. Sorkin from Sterling Bank.
6 I explained to him that there was a procedure that was
7 followed, there was no need to make those phone calls, to
8 avoid confusion or problems, that he should know the procedure
9 we had.

10 Further on in that conversation, Mr. Olsberg said
11 he had a relationship with a bank in Long Island who would
12 be interested in a five million dollar time deposit transfer.
13 I said let me relay the message, but I would like to meet you
14 first, -- something to that effect -- and that generally was
15 the conversation with Mr. Olsberg.

16 Q I show you what is now being marked Government
17 Exhibit 3 for identification.

18 (Government's Exhibit 3 marked for identification,
19 this date.)

20 Q I am taking out of Government's Exhibit 3 for
21 identification a cassette and ask you, sir, if you can identify
22 that.

23 A Yes.

24 Q Have you recently listened to that cassette?

25 A I listened to it on May 4th, '74.

* * *

1 hpal

Rodney - direct

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2 THE COURT: Yes.

3 Q Mr. Rodney, after the conversation on October 16th,
4 with Mr. Olsberg, did there come a time on October 18, 1972,
5 that you met with Olsberg at Howard Johnson, in Wayne, New
6 Jersey?

7 A Yes, I did.

8 Q Who else was present?

9 A Just he and I.

10 Q What was discussed?

11 A Well, we didn't stay at the Howard Johnson. We
12 went about another mile from there to a restaurant, and I
13 showed him a file on a summer camp owned by two brothers
14 named Pinsky, I believe, and about 45 minutes to an hour was
15 spent in reviewing this file.

16 These gentlemen were interested in obtaining a loan
17 to make improvements on the summer camp they owned in upstate
18 New York. Mr. Olsberg having told me he was in the mortgage
19 placing business, he reviewed the file and he said we could
20 look into it further, follow through on it.

21 Q What, if anything, was said concerning time deposits?

22 A He then went on to the subject of time deposits and
23 said he was a man who moved money and he was the man who
24 delivered the \$2,500. check to Mrs. Jean Gorab, Jim Gorab's
25 mother, and he was the one who was in connection with the

1 hpal

Rodney - direct

61

2 Sterling Bank and, as he said, the other people in New York,
3 not naming at that time, I don't believe, names at this
4 particular meeting.

5 Q Did there come a time later in the day that you
6 spoke to Robert Sellarole?

7 A Yes.

8 Q This is October 18, 1972; is that correct?

9 A Yes. That evening I received a call from Bob and
10 he said, Rod, I have to see you and we arranged for me to be
11 at his office the following morning in the vicinity of eight
12 or nine o'clock. And that was the conversation.

13 Q Did you have a conversation after you spoke to Mr.
14 Sellarole on the 18th again, with Olsberg, on the 18th?

15 A Yes. I called Mr. Olsberg in New York and told
16 him I would like to have him call me the following morning
17 about 11 o'clock. I told him I had received a call from Mr.
18 Bob Sellarole and I had a suspicion as to what it was and I
19 said it might be best that I can communicate with you after I
20 talk to Bob in case there may be problems and something may
21 have to be done from his end, in New York.

22 Q Directing your attention now to the 19th, which
23 was the next day, did you in fact see Robert Sellarole?

24 A Yes.

25 Q Where did you see him?

1 hpal

2 A At his office.

3 Q Where is that?

4 A In Hackensack at the corner of Parlor Fly Road and
5 Daniels Street.

6 Q Who else was present?

7 A Just Bob and I.

8 Q Was there a conversation that you had with Robert
9 Sellarole on the 19th, of October 1972?

10 A Yes.

11 Q Who said what?

12 A Bob said to me that Mr. Sorkin from the Sterline
13 Bank had made three phone calls pertaining to the \$2,500.
14 check that had been delivered to Mrs. Jean Gorab, that
15 supposedly Mr. Sorkin had called the Authority, also the
16 Trustee Bank and also Mr. Guido, the Treasurer of the Sewer
17 Authority; and that the phone calls from Mr. Sorkin apparently
18 were causing a lot of problems, getting a lot of people upset
19 and curious, I imagine.

20 Q What else did he say?

21 A Well, I said to him -- well, I understood the
22 seriousness of Mr. Sorkin's phone calls and I assured him
23 that I would make what contacts I had to make to get the phone
24 calling stopped. I then mentioned to him that I had met with
25 -- I didn't mention Mr. Olsberg by name, I don't believe I

1 hpal

Rodney - direct

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2 did, -- that there was another institution interested in
3 receiving an additional five million dollar time deposit
4 transfer, and the meeting ended and I left and I went to the
5 place where I expected Mr. Olsberg to call me at eleven.

6 Q Going back to the meeting a second, what, if
7 anything, was said with respect to the additional five million
8 dollar time deposit with respect to any fee, if anything?

9 MR. GALLUCCIO: Objection.

10 THE COURT: I will allow it.

11 A Will you repeat the question.

12 Q With respect to this additional five million time
13 deposit you just mentioned what, if any, fee was discussed?

14 A Oh, yes. I said the person who contacted me,
15 mentioning this bank in Long Island was interested in receiving
16 another -- not another, but an additional five million dollar
17 transfer, the fee for the five million dollars will be
18 \$17,000.

19 Q What, if anything, did Sellarole say then?

20 A He said he would get to work on it, there were
21 time deposits coming up for renewal.

22 Q Did there come a time when you spoke later with
23 Olsberg on the 19th of October?

24 A Yes. As prearranged, Mr. Olsberg called me at the
25 designated number I had given him the evening before and I

hpal

Rodney - direct

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1 told him, I said to Herbert Olsberg, I said I left Bob, I
2 met with Bob this morning, and I told him that his friend,
3 Mr. Sorkin, had made three phone calls, not one phone call
4 and he said in effect, Gordon, don't get excited, I'm having
5 lunch with Mr. Sorkin today and I believe he used the term
6 lid, "I'll put the lid on him, don't worry about it" and I
7 also mentioned he could tell his people that his message on
8 the five million dollar transfer has been relayed and not to
9 do anything at the moment.
10

11 MR. SAGOR: May this be marked Government's Exhibit
12 4 for identification.

13 (Government's Exhibit 4 marked for
14 identification.)

15 Q Mr. Rodney, I am handing you a cassette taken from
16 Government's Exhibit 4, for identification, and ask you, sir,
17 if you find your initials on that cassette?

18 A My signature.

19 Q Mr. Rodney, have you recently listened to that
20 cassette?

21 A Five, four, 74.

22 Q Have you listened to it after you heard a copy of
23 the cassette?

24 A Yes.

25 Q Directing your attention to the cassette does that

1 hpal

Rodney - Direct

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2 accurately reflect the conversation with Herbert Olsberg on
3 October 19, 1972?

4 A Yes.

5 MR. SAGOR: Your Honor, 4 is offered. Copy of it
6 was previously turned over to defense counsel.

7 MR. GALLUCCIO: Subject to the same ruling.

8 THE COURT: That is the recording itself?

9 MR. SAGOR: Yes, your Honor.

10 THE COURT: That may be received.

11 (Government's Exhibit 4 marked for identification,
12 received in evidence.)

13 Q Mr. Rodney, after you spoke to Olsberg on the 19th,
14 in the latter part of October, did there come a time when you
15 had a telephone conversation with Gorab?

16 A Yes.

17 Q Will you tell us about that, please?

18 A Well, Jimmy had called me after he returned from
19 his honeymoon, and he began pressuring me about the million
20 dollars to the Sterling Bank that had not been transferred
21 but the \$2,500. fee had been received by his mother. I said,
22 "Jimmy, it's being worked on, getting excited isn't going to
23 do anything." I said, "You should know the people you've
24 been dealing with and a lot of hollering on the phone is not
25 going to do any good." He further pursued and said, "Gordon,

1 hpal

Rodney - direct

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2 Q As best you remember it, would you tell us who
3 said what on October 31st, in Mr. Sellarole's office.

4 A I introduced Mr. Olsberg to Bob Sellarole and said
5 he is my man from New York and that if we worked together
6 there is a chance to make a lot of money. Bob said good, so
7 long as it's, you know, certain specified procedure is
8 followed. Everyone agreed to that.

9 Q During the course of that conversation, was there
10 an additional conversation about another transfer to be made?...

11 A Yes.

12 MR. GALLUCCIO: I object to the prosecutor's
13 testimony.

14 THE COURT: He has asked a question.

15 MR. GALLUCCIO: The answer is suggested in the
16 question therefore making it leading.

17 THE COURT: First, when you make an objection,
18 please stand.

19 MR. GALLUCCIO: I'm sorry, your Honor.

20 THE COURT: The objection is overruled.

21 A Yes, Mr. Olsberg further inquired on the five
22 million dollar time deposit transfer. I had previously
23 mentioned to Mr. Sellarole, concerning a bank Mr. Olsberg
24 supposedly had a relationship with in Long Island.

25 Q Can you tell us if Mr. Sorokin's name was mentioned

1 hpal

Rodney - direct

70

2 A Yes.

3 MR. SAGOR: Your Honor, Exhibit 5 is offered.
4 Previously a copy was turned over to defense counsel. Is
5 there any objection Mr. Galluccio?

6 MR. GALLUCCIO: There is no objection to the offer
7 except as to previous stipulation.

8 THE COURT: I am not quite clear.

9 MR. GALLUCCIO: That after the witness is concluded --

10 THE COURT: Yes. Received.

11 (Government's Exhibit 5 for identification, received
12 in evidence.)

13 MR. GALLUCCIO: May I just have the date of that?

14 MR. SAGOR: October 31st.

15 Q Did there come a time on November 19, 1972, that
16 you met again with Mr. Sellarole, and Mr. Olsberg in Mr.
17 Sellarole's office?

18 A Yes.

19 Q During the course of that conversation was there
20 further discussion about time deposits?

21 A There was a very, very short period of time in that
22 meeting but Mr. Olsberg did inquire again on what might be
23 done concerning the Long Island bank who is interested in
24 receiving five million of time deposits. Again, Mr. Sellarole
25 expressed he was working on it.

Rodney - direct

73

1 hpal

2 A Yes.

3 Q Was there a discussion at that time among the three
4 of you?

5 A Yes.

6 Q Did there come a time in the discussion when there
7 was reference to \$1,250.?

8 A Yes.

9 Q Would you tell us to the best of your recollection
10 who said what?

11 A In that meeting, Bob said to Mr. Olsberg that he
12 had offered to give the \$1,250. back, and he also restated
13 right then and there, "if you want the twelve hundred fifty,
14 I'll give it to you."

15 THE COURT: What else was said, if anything?

16 THE WITNESS: He said he was annoyed --

17 THE COURT: Who is he?

18 THE WITNESS: I'm sorry, Bob Sellarole said he was
19 annoyed with Jimmy Gorab over apparent pressure that Jim
20 Gorab had been putting on him to get the million dollars
21 transferred to the Sterling Bank and Bob said he offered to
22 him to give the \$1,250. back.

23 Q Mr. Rodney, who is "him"?

24 A Jim Gorab.

25 Q Will you repeat what you just said, the last part of

1 hpal

Rodney - direct

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2 Q Prior to the meeting of the 13th, Mr. Rodney --

3 THE COURT: What month?

4 MR. SAGOR: November 13th, your Honor, 1972.

5 Q Did you receive a telegram on the 13th?

6 A Yes.

7 Q Did you have this telegram prior to the meeting with
8 Sellarole on the 13th?

9 A Yes.

10 Q Was there a discussion in the conversation on the
11 13th concerning a telegram, if you remember?12 A I know I discussed that telegram with Mr. Olsberg.
13 I don't recall whether that was discussed in Bob Sellarole's
14 office.15 Q If I showed you a transcript of that conversation,
16 would that refresh your recollection?

17 A Yes.

18 MR. SAGOR: May this be marked Government's Exhibit
19 7-A for identification.20 (Government's Exhibit 7-A marked for
21 **identification.**)22 Q Mr. Rodney, would you direct your attention and
23 read to yourself please at this time, because it is not in
24 evidence, page 30 of Government's Exhibit 7-A for identifica-
25 tion, mid-way down the page and see if that refreshes your

1 lupal

Rodney - direct

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2 Mahwah, New Jersey in a sand pit on March 15, 1973?

3 A Yes.

4 Q Will you tell us who said what?

5 A I arrived there and Bob asked me how I made up in
6 the U.S. Attorney's office earlier that day in the morning.
7 He told me that he had been at the U.S. Attorney's office on
8 November 13, 1973.

9 Q On what date?

10 A November 13th.

11 Q You are now in March?

12 A -- I'm sorry, March 13, 1973, on a Tuesday in the
13 morning and he said to me that they asked him about time
14 deposits to the Sterling Bank, whether or not he had ever
15 received any fees in regard to the transferring of time
16 deposits. I told Bob they asked me the same questions and I
17 told Bob I told them no.

18 Q Please continue with the conversation.

19 A That was one item. Then he said Rod, we are going
20 to have to get a lawyer. I said I have to meet Pete Camarono,
21 to meet him tomorrow morning. I said I called Pete from the
22 U.S. Attorney's office and he told me to come in the following
23 morning.

24 Bob further said, "We can't let them know about the
25 fees and time deposits", and I certainly agreed with him. He

1 hpai Rodney - direct 80
2 further suggested to get in touch with Herbert Olsberg and
3 I agreed with that. Those were the three highlights of the
4 conversation.

5 Q What, if anything, did he tell you to do with
6 respect to getting in touch with Olsberg?

7 A I just said that.

8 Q What did he tell you to do?

9 A I'm sorry. He told me to --

10 MR. GALLUCCIO: I will object if The Court please. --

11 THE COURT: Don't lead. You can put the question
12 without leading.

13 Q What was said, Mr. Rodney? Take your time and tell
14 us what was said.

15 A He said to me it would be a good idea to get in
16 touch with Herbert Olsberg. I agreed with that. And, we
17 would have to get our stories together and get them straight
18 so that nobody would be saying that there were fees.

19 THE COURT: Who said that, that we would have to
20 get the stories straight?

21 THE WITNESS: Bob Sellarole said and I said it, to
22 get our stories straight that none of the three of us would
23 reveal what had happened with the fees and the time deposits.

24 Q Then what happened?

25 A Well, we parted company and I received a call later

EXCERPTS OF TRANSCRIPT OF PROCEEDINGS BEFORE WEINFELD, D.J.
AND A JURY DATED MAY 7, 1974

jw-lf

80a 86

UNITED STATES OF AMERICA

vs.

73 Cr. 1114

ROBERT C. SELLAROLE

May 7, 1974
2:15 P.M.

(Trial resumed - jury present)

G O R D O N K E N N E D Y R O D N E Y, resumed.

MR. SAGOR: May we proceed, your Honor?

THE COURT: Proceed.

DIRECT EXAMINATION CONTINUED

BY MR. SAGOR:

Q Mr. Rodney, at the close of yesterday you told us about meeting Mr. Sellarole on March 15, 1973, at a sand pit in Mahwah, New Jersey, and later speaking to one Herbert Olsberg, is that correct?

A Yes.

Q Later in the day I think you told us you appeared at the United States Attorney's office?

A Correct.

Q Without telling us what occurred at the United States Attorney's office, will you tell us what date, if any, you were told to appear at a Federal Grand Jury?

A The following Tuesday which would be March 20, 1973.

JW-1f

Rodney-Direct

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Q That is when you were told to come back?

A Yes.

Q Did there come a time later on the 15th that you can tell us whether or not you told Mr. Sellarole about your request to reappear at the Federal Grand Jury?

A Yes.

Q Where did you tell him that?

A At the sand pit on the evening of the 15th.

Q Was that during the conversation that you described to us at the close of yesterday?

A Yes.

Q I believe you already told us about your conversation with Mr. Olsberg, is that correct?

A Yes.

Q I want to direct your attention to Saturday, March 17, 1973.

A Yes.

Q I want to ask you, sir, did there come a time on Saturday, March 17, 1973, that you had occasion to go to the home of Mr. Galluccio?

A Yes.

Q And do you see Mr. Galluccio?

A Yes.

Q Is he present in the courtroom?

jw-lf

Rodney-Direct

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1 A Yes, he is.

2 Q Who else was present at Mr. Galluccio's house?

3 A His wife, one or two of his children and a
4 gentleman named Frank. I can't recall his last name
5 at the minute.
6

7 Q If I told you his name was Riviello, would that
8 refresh your recollection?

9 A Yes.

10 Q I don't want you to tell us the whole conversa-
11 tion. I just want a point in the conversation when he
12 asked you, think before answering: did there come a time
13 in the conversation when Mr. Galluccio took out a yellow
14 pad?

15 A He had a pad and pen and pencil. I don't
16 recall the color.

17 Q At the time, who else was present?

18 A Mr. Riviello, Mr. Sellarole and myself.

19 Q And Mr. Galluccio?

20 A Yes.

21 Q Were you represented by counsel at that time?

22 A No.

23 Q Was Mr. Riviello represented by counsel?

24 A No, not that I know of.

25 Q What relationship, if any, did you know Mr.

1 JW-1f

Rodney-Direct

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2 Riviello to have with Mr. Sellarole?

3 A They appeared to be friends and perhaps
4 business associates. I am not certain of that.

5 Q To your knowledge Mr. Riviello was not an
6 attorney, was he?

7 A No.

8 Q Can you tell us the conversation as best you
9 remember at the point Mr. Galluccio had a yellow pad?

10 A Mr. Sellarole reiterated that he said I had
11 been to the Grand Jury involving the matter of time deposits
12 and fees. Those were the questions he explained to us
13 that were asked of us. And Mr. Sellarole explained to
14 Mr. Galluccio what transpired.

15 Q What did he say, Mr. Rodney?

16 A He explained that a \$1,000,000 transfer had
17 been made and a fee had been paid for the \$1,000,000 that
18 was transferred. That another fee was paid and a transfer
19 never made in conjunction with the \$2,500 fee that was
20 paid.

21 Q And who did Mr. Sellarole say received the fees,
22 if he did?

23 A He and I.

24 Q What else did he say, if you remember?

25 A By "he," you mean Mr. Sellarole or Mr. Galluccio?

JW-lf

Rodney-Direct

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Q Mr. Bellarole only, sir.

A He was explaining the details of these transfers.

That was the conversation. He explained that he and I had received a portion of the fees. He explained the amounts.

Q What did he say?

A He said he had received \$800 from the first \$1,250 that was transferred, that he had received twelve of fifty on the second fee and I had received \$625 from the \$2,500 fee.

Q And was that the conversation as best you remember?

A Yes.

Q Directing your attention to this year, 1974, did there come a time in February of 1974 where in Federal Court you pled guilty to count one of the indictment that is presently being tried before this court and jury?

A Yes, I recall.

Q What is your sentencing date, Mr. Rodney?

A March 24th.

Q March 24th?

A May 24th, I'm sorry. This month.

Q Where is that?

* * *

1 rk-lf

Rodney-Cross

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2 normal business day concerning a transfer of a million
3 dollars?

4 A I gather that he did.

5 Q Is it not a fact that Mr. Sellarole agreed
6 to put forth the name of Sterling Bank before the
7 board because it was, in fact, paying the highest rate
8 of interest which could be obtained?

9 A Yes.

10 Q At this point in time you say as soon as the
11 transfer was made which we accept to be September 22nd,
12 after that a payoff was made to Mr. Sellarole at Laneve's
13 Restaurant in the City of Patterson or Haledon?

14 A Would you repeat the entire question?

15 MR. GALLUCCIO: I will withdraw it.

16 Q After the transfer of September 22nd, you say
17 you paid Mr. Sellarole for this favor that he did, namely --

18 THE COURT: He didn't say for a favor. That
19 is a misstatement.

20 MR. GALLUCCIO: I will withdraw that, your
21 Honor. I agree with the Court.

22 Q After September 22nd, you met with Mr.
23 Sellarole at Laneve's Restaurant?

24 A Yes.

25 Q What was the purpose of that meeting?

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* * *

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Government from speaking --

THE COURT: Please do not argue any further.
I said the Government may make any statement to the Court
as a defendant's counsel may make on behalf of a defendant
at the sentence.

MR. GALLUCCIO: All right.

THE COURT: The matter is within the Court's
sole discretion.

JAMES W. GORAB, called as a witness
on behalf of the Plaintiff, having been first duly
sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. SAGOR:

Q Mr. Gorab, how are you employed?

A As a mortgage broker and nursery man.

Q Would you explain to the jury what a nursery
man is?

A We sell trees and shrubs, retail and wholesale.

Q How long have you been in the plant business?

A A month.

Q And your other job is what, that of a mortgage
broker, did you say?

A Yes.

Q What is the job of a mortgage broker?

rk-1f

Gorab-Direct

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1 A A mortgage broker basically is to put people
2 that are seeking funds and people that have funds together
3 so they can culminate a project or construction project.
4

5 Q What do you receive in connection with bringing
6 people together?

7 A A fee.

8 Q Mr. Gorab, how old are you?

9 A 30.

10 Q Are you married?

11 A Yes, sir.

12 Q Directing your attention to the summer of 1972,
13 were you employed?

14 A Yes.

15 Q What capacity?

16 A I worked for myself as a mortgage broker.

17 Q Did you have an office?

18 A I used my house.

19 Q Would you tell us the address for the record,
20 please?

21 A 274 Monroe Avenue, Wyckoff, New Jersey.

22 Q Did there come a time in the summer of 1972
23 that you met Gordon Rodney?

24 A Yes.

25 Q When did that come about, to the best of your

rk-lf

Gorab-Direct

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recollection?

A The early part of August.

Q Did you have a conversation with Mr. Rodney?

A Yes, we had many. Pertaining to what?

Q Pertaining to anything. I take it when you first met him, you had a conversation?

A Yes.

Q To the best of your recollection, where did that conversation occur, if you remember?

A At my mother's house in Wyckoff. Previous to being an equipment broker, he was employed by C.I.T. Financial and he was looking to get back into the finance business and we were discussing the possibility of him working with me and doing financing.

Q Without giving us the whole conversation, did you enter into an arrangement with Mr. Rodney concerning equipment?

A Yes. He would have been employed by me around September of October.

Q Did there come a time when you met Robert Sellarole?

A Yes.

Q When did that occur?

A The middle of August.

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Gorab-Direct

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Q Where did that occur?

A I met him with Gordon Rodney and we looked at a cattle farm out in Sussex, New Jersey.

Q If Mr. Sellarole is present in the courtroom, would you point to him and state what he is wearing?

A He is sitting right there.

MR. GALLUCCIO: Indicating the defendant Robert Sellarole for the record.

Q When did you first meet Robert Sellarole?

A The middle of August.

Q 1972?

A Right.

Q Prior to the time you met Robert Sellarole for the first time, did there come a time when you had a conversation with Mr. Rodney concerning what we have referred to here on occasion as time deposits?

A Yes.

Q When did that conversation occur with Rodney concerning time deposits?

A The early part of August.

Q Where did it take place?

A At my house.

Q Who else was present?

A Gordon Rodney and myself.

rk-lf

Gorab-Direct

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1 rk-lf
2 Q Is this your mother's house that you refer
3 to as yourhouse?

4 A Yes.

5 Q Where did the conversation occur?

6 A In the kitchen.

7 Q Who said what on that occasion?

8 A We were talking generally about financing
9 different things in particular and he said to me that he
10 had a friend that had some money that could be put on
11 time deposits and if we knew of any banks that were
12 willing to pay a fee.

13 I called a couple of bankers I knew locally
14 and couldn't get any banks that were interested in taking
15 the money and also paying a fee.

16 While we were having this conversation, I was
17 talking with another associate I do some work with, Herbert
18 Slaitin, and I just mentioned it to him, I said, "Oh,
19 by the way, do you have any banks that are interested
20 in taking time deposits and getting a fee?" He said, "I
21 don't know, I will check around and get back to you," and
22 that was the end of the conversation.

23 Q Before we go ahead, will you tell the members
24 of the jury when you first met Herbert Slaitin?

25 A The early part of '71.

rk-lf

Gorab-Direct

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1 Q In what connection?

2 A As a mortgage broker.

3 Q Where did Slaitin carry on his business?

4 A Here in New York.

5 Q New York City?

6 A Yes.

7 Q After you had this conversation with
8 Slaitin -- by the way, was that in Rodney's presence?

9 A Yes.

10 Q Do you remember any further conversation with
11 Rodney on that day in August of 1972 at your mother's
12 house?

13 A No. He was there when I called the banks and
14 knew we hadn't got a favorable response at that time.

15 Did there come a time after the meeting that
16 you had with Rodney in your mother's house that you
17 again spoke to Slaitin?

18 A Yes. I spoke to Mr. Slaitin on numerous
19 occasions and he called me one day and said that he
20 had come up with an idea that he had a client that had a
21 questionable loan -- not a questionable loan. A loan
22 that the banks looked at but if they could get a time
23 deposit stuck into a bank, they would be assured of
24 getting a loan and for this they would pay us a fee.
25

EXCERPTS OF TRANSCRIPT OF PROCEEDINGS BEFORE WEINFELD, D.J.
AND A JURY DATED MAY 9, 1974

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* * *

UNITED STATES OF AMERICA

vs.

73 Cr. 1114

ROBERT C. SELLAROLE

May 9, 1974
10:00 A.M.

(Trial resumed)

(In open court - jury present)

THE COURT: Proceed.

MR. SAGOR: Your Honor, would you announce to the jury that a witness is being taken out of turn because Mr. Gorab is apparently stuck on the highway.

THE COURT: I understand the witness who was on the witness stand yesterday when we adjourned for the day has been delayed by some traffic incident and he suggested he would be here about 10:30. In the meantime not to lose time we will call another witness out of turn. In other words, we are interrupting the testimony of this witness.

Call your other witness.

MR. SAGOR: Yes, your Honor. The Government calls Michael Welch.

C H A R L E S M. W E L C H, called as a witness
on behalf of the Government, having been first duly
sworn, was examined and testified as follows:

jw-lf

Welch-Direct

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DIRECT EXAMINATION

BY MR. SAGOR:

Q Mr. Welch, how are you employed?

A I am an attorney, sir.

Q How long have you been an attorney?

A Fourteen years.

Q By what authority are you employed?

A I am employed by the Port Authority of New
York.

Q Where do you live, sir?

A In Wyckoff.

Q And how long have you lived in Wyckoff?

A Seven years.

Q And during the course of your seven years living
in Wyckoff, did you come to meet one James Gorab?

A Yes.

Q Do you know his parents?

A Yes.

Q How long have you know James Gorab?

A For the length of time I lived in Wyckoff.

Q Seven years?

A Yes.

Q What is your address in Wyckoff?

A At that time or now?

1 Q In 1972.

2 A In 1972 our address was 244 Woodland Avenue.

3 Q What was Mr. Gorab's address in Wyckoff, if
4 you remember?

5 A Well, his parents' home was next door to us.
6 They were on Monroe Street, but I don't recall the exact
7 number. They were on the corner of Monroe and Woodland.

8 Q You were neighbors with his parents?

9 A Yes.

10 Q Directing your attention to the fall of 1972,
11 did there come a time in the fall that you had a telephone
12 conversation with Mr. Gorab -- James Gorab?

13 A I can't pinpoint the time with any -- within
14 any certain period, but I did have a phone conversation
15 that might have fallen in the fall of '72. Summer or fall,
16 I don't recall.

17 Q Where were you during the time of the telephone
18 conversation?

19 A At home.

20 Q In New Jersey?

21 A Yes, sir.

22 Q And do you know where Mr. Gorab was calling
23 from?

24 A He said he was calling from his home.
25

JW-lf

Welch-Direct

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Q Would you tell us what he said and what you said, please?

A Well, to the best of my recollection he asked me if I could save him a trip to New York. I said, "Sure, Jim, how can I do that?"

He said, "Well, if I had somebody drop something by your office tomorrow could you pick it up and bring it home?"

I said, "Yes, I could."

Q Did there come a time the next day that someone did, in fact, drop something off at your office?

A As I recall I came back from lunch and there was something there.

Q Where were you working in 1972, the fall?

A At that time our offices were at 111 Eighth Avenue.

Q New York City?

A Yes, sir.

Q Was that the World Trade Center?

A No, Eighth and 15th, the old Port Authority Building.

Q What was it that someone left at your office?

A An envelope.

Q Did you know what was in the envelope?

1 jw-1f

Welch-Direct

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2 A No, sir.

3 Q Do you remember the color of the envelope?

4 A No, I don't.

5 Q Did there come a time that you took possession
6 of the envelope?7 A Yes, when I got back from lunch as I recall
8 the receptionist said somebody had left something with
9 me and I took it and put it in my pocket.

10 Q Then what happened?

11 A Well, I spent the rest of the afternoon working.
12 Then I went home and as I recall I called Mr. Gorab to
13 tell him --

14 Q Do you remember how you went home by the way?

15 A As I usually do, by train.

16 Q From New York to New Jersey?

17 A Yes, I take PATH across the Hoboken and then
18 take the Erie Lackawanna.

19 Q What did you do with it after reaching home?

20 A To the best of my recollection I called Mr.
21 Gorab to tell him I had it and he came over and picked it
22 up.

23 Q Did you ever see the envelope again?

24 A No.

25 Q Did you ever learn what was inside the envelope?

Welch-Direct

Olsberg?

Did you ever meet an individual named Herbert

No, sir.

Q Do you know who, if anyone, brought the envelope?

A I never saw it. It was delivered while I was out.

MR. SAGOR: No objection.

CROSS EXAMINATION

BY MR. GALLuccio:

What date was this, Mr. Gorab?

I don't know.

MR. GALLUCCIO: That is all.

MR. SAGOR: No further questions.

(Witness Excused)

MR. SAGOR: Your Honor, the Government calls
Mr. William Fleisher.

W I L L I A M L. F L E I S H E R, called as a
witness on behalf of the Government, having been
first duly sworn, was examined and testified as follows:

MR. SAGOR: May we proceed, your Honor?

THE COURT: Yes.

DIRECT EXAMINATION

JW-lf

Fleisher-Direct

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BY MR. SAGOR:

Q Mr. Fleisher, how long have you been an F.B.I. agent?

A Three and a half years, sir.

Q Did there come a time in September and October, 1972, that you began an investigation concerning the instant case?

A Yes, sir, I did.

Q Did there come a time on October 1, 1972, that you had occasion to meet Herbert Olsberg?

A Yes, I did.

Q And did you equip Mr. Olsberg with certain recording device?

A Yes, I did.

Q Will you explain what you did on this date? And if you will explain any other dates the nature of the recording device worn by Mr. Olsberg.

A Yes, I will. On Mr. Olsberg I placed what is known as a Kel, K-E-L, transmitting device. This is a device about the size of half a pack of cigarettes which is equipped with a transmitter, self-contained batteries and an antenna at the end of which is a microphone. This is strapped to the inside of Mr. Olsberg's leg and the antenna wire is run up in front of his chest and pinned by

jw-lf

Fleisher-Direct

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tape, secured by tape under his shirt. This guise is capable of transmitting sound and voices about 100 yards clearly. After that it diminishes in quality.

Who, if anyone, receives the transmissions that Mr. Olsberg has on the Kel unit?

A Myself and other agents.

Q And with respect to the conversations that were admitted into evidence were you there on each and every occasion that Mr. Olsberg was transmitting on the Kel units?

A Yes, I was.

Q And what, if any, equipment did you have, Mr. Fleisher?

A I was equipped with a tape recorder, cassette tape, which was either operated off of a Kel receiver, which is familiar as a handy talking device or the car radio, depending on the circumstances.

This cassette recorder was capable of recording whatever was transmitted by the body Kel worn by Mr. Olsberg.

Q Was this recorder set?

A Yes, it was.

Q And the recordings at all times -- can you tell us whether or not they were in your custody?

jw-lf

Gorab-Direct

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\$1,000,000 of the Sewer Commission money and he said that we could get paid a fee and that the fee would be \$2,500.

Q What did you then do after he told you this?

A I called Rodney and asked him if it was okay if the money went to New York.

Q What did he say?

A He said he would check on it and call me back.

Q Did he tell you who, if anyone, you were to speak to?

A Yes, he said he was going to call Bob Sellarole and see if it was all right.

Q Proceed. Then what happened?

A Then he called me back and said yes, the money could go to New York. We asked the rate of interest. The rate of interest was six percent. And then we set up the new transfer.

Q Then what?

A We did --

Q You can't explain it. You have to tell us conversations with people. Is this your conversation with Mr. Rodney on the telephone?

A Right.

Q Tell us the conversation as best you can remember.

1 jw-lf

Gorab-Direct

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2 A I talked to Gordon Rodney on the phone and I
3 asked him if it was possible for the money to go to New
4 York. He said he would check and call me back. Then I
5 asked him how we would transfer the money. He said
6 what we would do is we would notify the Sterling Bank
7 on such and such a day, they would call the Sewer Commission,
8 that Mr. Sellarole would discuss it with the treasurer
9 and authorize, you know, that the money could go to Sterling
10 Bank when Mr. Sellarole called.

11 Q Then what happened?

12 MR. GALLUCCIO: Not to interrupt, may I have a
13 date on this or the approximate? I might have missed it.

14 Q Late September, is that right?

15 A Yes.

16 Q Did there come a time that Mr. Slaitin called
17 you up again?

18 A Yes, he called me and said that the money had
19 been transferred to Sterling National Bank and that the
20 fee would be forthcoming in the next couple of days.

21 At that time he told me instead of the fee
22 being \$2,500 that the fee would only be \$1,250 because
23 he had to pay people on his end.

24 Q What did you say to him when you learned that
25 the fee was twelve fifty?

jw-lf

Gorab-Direct

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1 A I explained to him the original deal was that
2
3 it would be \$2,500 and we were only getting half the fee
4 and I was kind of disturbed about it.

5 Q Who did you speak to, if anyone, after Slaitin
6 told you the fee was twelve fifty?

7 A I called Gordon Rodney and told him Herb Slaitin
8 had cut our fee to twelve fifty. He said, "Gee, we are
9 going to have problems, because I told Mr. Sellarole
10 he would get a third of 2,500."

11 I said to him, Well, we could get more trans-
12 fers, we will pay him the third of the 2,500 and he and I
13 would split the difference and we agreed to that.

14 Q Then what happened?

15 A A couple of days later Herb Slaitin called me
16 and said that the check was ready and asking if I could
17 come into New York and pick it up. I said to him my
18 next door neighbor worked at the new World Trade Center and
19 why not just take the check to him and have him bring it
20 out to his house for me. He said okay.

21 That afternoon he gave the check to Mike Welch,
22 who is my next door neighbor.

23 Q Do you know if he personally gave Welch the
24 check?

25 A No, I think he just dropped it at his office.

jw-lf

Gorab-Direct

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I went over and picked up the check. Then I went to Prospect Park National Bank in Hawthorne and kept --

Q Just before you get, don't run ahead.

A Okay.

Q Getting back to your conversation with Slaitin, what, if anything, did Slaitin say about additional money?

MR. GALLUCCIO: Objection.

THE COURT: Wasn't there any discussion about additional money? Won't you put the question properly, please, and we will eliminate some of these objections.

Q What did Mr. Slaitin -- excuse me, go with his Honor's question. Did you hear the question?

A Yes, I did. He asked me if there were any other monies available, he needed three million more, and I said I would check on it that evening.

Q Did there come a time on September 28th before you had a meeting later in the day, did there come a time when you went to the Prospect Bank?

A Yes, I went to the Prospect National Bank in Hawthorne and my fiancée at the time who is now my wife, she cashed the check, \$850 in cash and deposited the rest in a checking account.

Q What check did she cash?

jw-lf

Gorab-Direct

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A The check from John Lamont for \$1,250.

Q Now, just back up just a second. When Welch left the envelope in your house, what, if anything, was in the envelope?

A There was a check for \$1,250 from John Lamont.

Q And is that the check you are talking about that you took to the Prospect Bank?

A Yes, it is.

Q I show you what is now being marked Government's Exhibit 15 for identification.

(Government's Exhibit 15 marked for identification.)

Q Can you identify Government's Exhibit 15 for identification?

A Yes, this is the check and also the deposit slip from Prospect National Bank.

Q Is that the twelve fifty check you are referring to?

Q Yes.

Q Is that a photocopy of the check?

A Yes.

Q Can you identify the other document in that plastic?

A Yes, this is a deposit slip from my wife's

jw-lf

Gorab-Direct

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account.

Q Is that a photocopy of the deposit slip?

A Yes, it is.

Q Did there come a time after you went to the Prospect Bank -- what did you get at the Prospect Bank?

A I received \$850 in cash and we deposited the \$400.

Q Do you remember the denominations of the money you received?

A Hundreds and fifties.

Q Did there come a time on September 28, 1972, that you spoke to Gordon Rodney before going to the Prospect Bank or afterwards?

A Yes, I talked to him -- as soon as I received the check from Mike Welch, I called Gordon Rodney and said, "I have the check."

He said, "Okay, why don't we meet at Laneve's Restaurant at around eight?"

I said, "Okay, fine."

Q Did he tell you what -- what additional conversation was there?

A He said Bob Sellarole would also be there.

Q Now, can you tell us to the best of your recollection when you arrived at Laneve's on September 28, 1972?

JW-lf

Gorab-Direct

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A It was about eight o'clock.

Q And what, if anything, did you have with you when you arrived?

A I had 850 in cash -- dollars in cash.

Q Who was at Laneve's when you arrived?

A Gordon Rodney, Robert Sellarole and his son.

Q Had you ever met his son before?

A No.

Q Do you know his son's name?

A No, I don't.

Q Then what happened?

A We sat down at the bar and had a couple of drinks and just idle chatter for about ten or fifteen minutes. I don't remember exactly what the, you know, the cue was, but something to the effect, you know, that I would pay Mr. Sellarole's son and Mr. Sellarole's son and I went to the men's room and I gave him \$800 in cash and we came back to the bar and Mr. Sellarole turned to his son and says, "Is everything okay?" He says, "Yes."

Q When you say, "He said, 'Yes,'" who are you referring to as the "he"?

A Mr. Sellarole said to his son if everything was okay and his son said yes it was.

Q Then what happened?

jw-lf

Gorab-Direct

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1 A We continued just, you know, idle chatter and
2 talking about cattle farming and then I asked him if there
3 was any additional funds available that we needed three
4 to five million. He said that there would be three million
5 coming back on redemption within the next two or three
6 weeks.
7

8 Q And then what?

9 A We talked a little more about cattle farming
10 and just idle chatter. Then we left.

11 Q Now, you say you talked about cattle farming?

12 A Yes.

13 Q Did there ever come a time in the course of
14 that conversation any conversation about a Dr. Wager?

15 A Yes, that is the cattle farm, Dr. Wager's cattle
16 farm.

17 Q Can you tell us whether or not there was any
18 additional conversation about people's trucks?

19 A No, not to the best of my knowledge.

20 Q Please proceed. Then what happened after the
21 conversation broke up?

22 A Mr. Sellarole got in his car and left. Gordon
23 and I talked for a couple of minutes and then we left.

24 Q Well, what was your conversation outside the
25 bar? What did he say and what did you say?

* * *

JW-lf

Gorab-Direct

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A Yes, he did, he and his wife.

Q And did you have a conversation with Rodney at the wedding concerning the time policy?

A Yes, I explained to him since I was going on the wedding that we had the people in New York, being Mr. Slaitin and Mr. Olsberg, if they needed any money that they call my mother and she would get in touch with Gordon Rodney to initiate the transfer.

Q To the best of your knowledge did Rodney meet Olsberg at the wedding?

A Not that I know of.

Q And did there come a time at the wedding that you had a conversation between your mother and Olsberg?

A Yes.

Q And to the best of your recollection what was that conversation?

A The conversation was to explain to my mother that Mr. Olsberg would be calling the house and saying that he needed an additional three million or five million dollars and that my mother was to receive the fee for \$2,500 for each million that was to be transferred. She was then to relay the information from Mr. Olsberg to Gordon Rodney so that the transfer could take place.

Q Had you previously heard a recording of that

* * *

1 jw-lf

Gorab-Direct

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2 Government's Exhibit 1?

3 A Yes.

4 Q And how can you identify that?

5 A This is my wife's signature.

6 Q How much was the check for, if you remember?

7 A For \$100.

8 Q On October 2nd, you went on your honeymoon,
9 is that correct?

10 A Yes, I did.

11 Q Prior to your going on your honeymoon, did you
12 have a conversation with Mr. Olsberg?

13 A Yes, I did.

14 Q What kind of conversation was that?

15 A Well, he said at the wedding the day prior
16 that he would be bringing out the 2,500 to start initiating
17 the transfer of the next million dollars and I called
18 him --

19 THE COURT: Who is "him"?

20 THE WITNESS: Mr. Olsberg, your Honor.

21 A I called Mr. Olsberg and he said that the
22 money would be coming out later on in the afternoon, but
23 since we had to catch a flight that he would deliver it
24 to my mother's house.

25 Q And what, if anything, did you tell Olsberg

jw-lf

Gorab-Direct

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1 in that conversation?

2 A Basically --

3 Q If you remember.

4 A Yes. Basically it was just that I -- that no
5 money would be transferred unless he paid the \$2,500
6 fee.

7 Q On October 2nd, after the conversation, where
8 d'ld you go?

9 A On my honeymoon.

10 Q Did you leave the country?

11 A Yes.

12 Q Prior to coming back from your honeymoon was
13 there a telephone call to anyone?

14 A Yes, I called my mother from I think Caracas
15 or Curacou and asked her, you know, had the money been
16 transferred and had she received any money. And she said,
17 yes, she received \$2,500 and that she had paid Gordon
18 Rodney 1,800 and I think \$75 and that she had used the
19 additional funds to pay a telephone bill that we had.

20 And she said that she had also put Mr. Olsberg
21 and Mr. Rodney together, they were talking together which
22 I really didn't want at the time I went on my wedding.

23 Q Did there come a time while you were out of
24 the country where you had a telephone conversation with
25

1 Rodney, if you remember?

2 A Yes, I called Gordon Rodney right after my
3 discussion with my mother and discussed, you know, about
4 the transfers being made and the fee and that was basically
5 the conversation.
6

7 Q Did you get back from your honeymoon in October?

8 A Yes, October 17th.

9 Q And upon coming back from your honeymoon, did
10 you have a conversation with Olsberg?

11 A Yes, I did.

12 Q Can you tell us to the best of your recollection
13 what that conversation was? Excuse me, have you said the
14 date of the conversation?

15 A I think it was the 17th.

16 Q What was the conversation?

17 A The conversation basically was that about the
18 money being transferred and how come we hadn't got all
19 our fees.

20 Q And have you heard a tape recording of that
21 conversation?

22 A Yes, I have.

23 Q Does that tape recording accurately reflect the
24 telephone conversation?

25 A Yes, it does.

★ ★ ★

1 jw-lf

2 tion -- in evidence, rather?

3 A Yes, this is dated the 18th.

4 Q Now, do you have another one there dated the
5 19th?

6 A No, I don't. The second, 17th and 18th.

7 MR. SAGOR: Excuse me one moment.

8 THE COURT: Why don't we take our midmorning
9 recess now.

10 (Recess)

11 MR. SAGOR: May we proceed, your Honor.

12 THE COURT: Yes.

13 BY MR. SAGOR:

14 Q After the 18th of October, 1972, you say you
15 had several conversations with Mr. Olsberg, is that correct?

16 A Yes, I did.

17 Q Directing your attention to another matter,
18 did there come a time in late October or early November
19 that you had a conversation with Robert Sellarole?

20 A Yes, I called Mr. Sellarole in Hackensack and
21 asked him if he could meet me and we met at the Marriott
22 Motor Lodge in Saddle Brook.

23 Q You jumped ahead too fast. You called him
24 on the telephone, where did you make the call from?

25 A A diner on Route 4, New Jersey.

2 THE COURT: Did you do anything at lunch hour
3 about it?

4 MR. GALLUCCIO: Yes, I had lunch and relaxed
5 during lunch. I got four hours sleep, your Honor, last
6 night. I was working on this case. I haven't been
7 dillydallying.

8 THE COURT: Do you want the witness who is
9 available? Well, in any event, he is available for you.
10 You make up your mind what you want to do about him.

11 MR. GALLUCCIO: I will have a proper motion to
12 make when the Government rests perhaps as to him. I don't
13 know. If I do, I will let Mr. Sagor know.

14 THE COURT: All right, the juror is present.
15 We can go ahead.

16 (In open court)

17 F R E D L O R B E R, called as a witness on behalf
18 of the Government, having been first duly sworn, was
19 examined and testified as follows:

20 MR. SAGOR: May we proceed, your Honor?

21 Mr. Clerk, I previously marked in your records
22 this Government Exhibit 16 for identification and Government
23 16-A for identification. I hand the exhibits to the
24 witness.

25 DIRECT EXAMINATION

jw-lf

1 A Right.

2 Q You said this was when?

3 A Either sometime in August or early September.

4 Q When you spoke to Mr. Slaitin on the phone,
5 you indicated to him, did you not, that you knew somebody
6 in the Sewer Authority that had money available for
7 transfers and deposits in banks?
8

9 A No.

10 Q You didn't?

11 A No. What I asked -- what I told Mr. Slaitin
12 was prior to Mr. Slaitin's calling I had talked to Gordon
13 Rodney and he said he had money to be put in time deposits.
14 I called several banks and couldn't get any interest with
15 the local bank. So I talked to Mr. Slaitin. We were
16 discussing other business and I as a closing remark casually
17 said to him, "By the way, do you have any place you can
18 put in time deposits and get a fee?"

19 He said, "I don't know, I will call you back."

20 Q So you made an inquiry of Mr. Slaitin?

21 A Yes.

22 Q And then he did, in fact, call you back?

23 A Yes.

24 Q And when he called you back he indicated to you
25 that he did have such a place?

THE COURT: You have it.

MR. GALLUCCIO: I made that inquiry because the witness indicated there are twelve or thirteen.

THE COURT: That was his testimony.

MR. SAGOR: As far as I know Olsberg and --
talked to people without the F.B.I. monitoring his behavior.

THE COURT: I am only interested have you turned over all the tape recordings.

MR. SAGOR: To the best of my knowledge.

MR. GALLUCCIO: I accept his representation.

(In open court)

THE COURT: All right, the witness is excused.

(Witness Excused)

THE COURT: Call the next witness, please.

MR. SAGOR: Karen Bopp.

K A R E N J. B O P P, called as a witness on behalf of the Government, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. SAGOR:

Q Miss Bopp, you work for the Federal Reserve Bank in New York?

A That's right.

Q Can you tell the members of the jury where the

jw-lf

Bopp-Direct

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1 Federal Reserve Bank is?

2 A It is located at 33 Liberty Street, New York.

3 Q How long have you been with the Federal Reserve
4 Bank?

5 A Almost six years.

6 Q Can you tell the members of the jury just very
7 briefly what the function of the Federal Reserve Bank is?

8 A Well, it acts as a central bank. Certain commer-
9 cial banks are required to have accounts at the Federal
10 Reserve Bank and to maintain a certain amount of reserves.

11 Q And did you bring with you pursuant to subpoena
12 certain documents of the Federal Reserve Bank?

13 A Yes, that's right.

14 Q And do you have a particular division that you
15 are in in that bank?

16 A That's right, I am manager of the Collection
17 Department and one of my responsibilities is I am to oversee
18 the work of the Wire Transfer Division.

19 Q Can you explain to the members of the jury what
20 the Wire Transfer Division does?

21 A We handle transfers of funds between banks
22 that have accounts on our books. We transfer at their
23 request, we debit their accounts and transfer the money to
24 another bank's account.
25

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Q How long does it take, for example, to accomplish a wire transfer of some million dollars, for example?

A It is done on the same day that we get the request. We transfer the money.

Q In terms of minutes, hours, it takes less than a day, is that right?

A That's right, actually only a few minutes.

Q A few minutes, for example?

A That's right. It depends on how we receive the requests. If it is a telephone request we write it down on a piece of paper and prepare a paper tape that is input into our communications system and the debits and the credits are made automatically at that point.

Q With respect to the subpoena served on the board with respect to a million dollars transferred from the Garden State Bank in New Jersey to New York on September 22, 1972.

A Yes.

Q I hand you Government's Exhibit 17, 18 and 19 for identification. Do those documents have your initials?

A Yes, they do.

Q Are they kept in the ordinary course of the bank's business?

A That's right.

jw-lf

Bopp-Direct

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Q Was it the ordinary course of the Federal Reserve's business to keep these records?

A Yes.

Q Have you also brought with you today true copies of the exhibits, 17, 18 and 19?

A Yes, I have.

MR. SAGOR: Your Honor, Government's Exhibits 17, 18 and 19 are offered and the Government's application is to substitute the true copies.

THE COURT: Show them to Mr. Galluccio?

MR. SAGOR: I believe I have shown them to Mr. Galluccio.

MR. GALLUCCIO: I have no objection.

MR. SAGOR: May the record note I am giving the originals back to the witness and substituting the copies of the entries and debits.

(Government's Exhibits 17, 18 and 19 for identification received in evidence.)

Q Miss Bopp, taking Government's Exhibit 17 first, can you tell the members of the jury first what it is that is called?

A It is called "Telephone Request Transfer of Funds."

Q And can you in your own words explain, take it

JW-lf

Bopp-Direct

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from the top, who, for example, is the telephone call from?

A From Garden State National Bank, Hackensack, New Jersey.

Q What date?

A September 22, 1972.

Q That call is to New York?

A That's right.

Q What happened then?

A They requested us to transfer money, a million dollars, from their account on our books to the Sterling National Bank located in New York City.

Q And was that transfer for any particular reason?

A We were directed to put on the transfer, "Attention Mr. Sheldon Salkin, Vice President, Reference Issue C.D., in the name of Garden State National Bank, Trustee Bergen County Sewer Authority."

Q Can you tell us in your experience what does the phrase "C.D." refer to?

A That stands for Certificate of Deposit and this briefly means that a bank is acknowledging receipt of a certain amount of money that has been given to it by a bank or another party and the banker receives this money promises to pay it back at a specified period of time, plus interest.

JWpa 4

* * *

Members of the jury, this is an exhibit in evidence. It's the Grand Jury testimony which the government is offering in connection with its charges under the perjury count. And the one person will simulate the question and the other person who is answering, the defendant.

MR. SAGOR: "Mr. Robert Sellarole called as a witness by the Grand Jury, being first duly sworn by the foreman testified as follows:"

I will read the questions as examined by Mr. Ben-Veniste, an Assistant United States Attorney, Mr. Fleischer will answer verbatim as was answered by Mr. Sellarole. This is Government's Exhibit 16 that is being read to you, dated March 17, 1973, United States Courthouse, Foley Square, New York, New York, United States of America against John Doe.

(Government's Exhibit 16 in evidence was read.)

MR. SAGOR: The government calls Dorothy Redmond.

D O R O T H Y R E D M O N D , called as a witness by the government, having first been duly sworn, testified as follows:

* * *

* * *

JWpa 15

Gorab-direct

THE WITNESS: No, sir, your Honor, I
wasn't.

MR. GALLUCCIO: I am not suggesting that.
Thank you.

(Witness excused.)

THE COURT: Call your next witness, please.

MR. SAGOR: The government calls Jean
Gorab.

J E A N G O R A B, called as a
witness by the government, having first
been duly sworn, testified as follows:

THE COURT: Please try and keep your voice up
so all the members of the jury can hear you. Talk
directly to the jury.

MR. SAGOR: May we proceed, your Honor?

DIRECT EXAMINATION

BY MR. SAGOR:

Q Mrs. Gorab, what is your address?

A 274 Monroe Avenue, Wyckoff, New Jersey.

Q Do you have a son, James Gorab?

A Yes, sir.

Q In 1972 for part of the time did your son
James live at home?

A Yes, he did.

JWpa 16

Gorab-direct

Q And was he married on October 1, 1972?

A Yes, sir.

Q Were you at the wedding?

A Yes.

Q And did there come a time at the wedding that you had a conversation with him and a Mr. Olesberg?

A Yes.

Q And can you tell us whether October, 1st was the first time that you met Mr. Olesberg?

A It was.

Q And without going into the conversation at this time, did that conversation concern money, public money of the Bergen County Sewer Authority?

MR. GALLUCCIO: Objection.

THE COURT: You are leading. Ask her to state the subject matter of the conversation.

MR. SAGOR: I don't think we need to go into tape recording of that. I just want to get her focusing on that and move on.

Could we have the last --

Q Was there a conversation?

A There was a conversation.

Q And after the conversation between your son and Mr. Olesberg did there come a time a couple of days

JWpa 17

Gorab-direct

thereafter that Mr. Olesberg -- that you saw
Mr. Olesberg?

A Yes.

Q And where was that?

A In Patterson.

Q Where?

A Outside of my place of business. Outside
of my place of business.

Q And what if anything did Mr. Olesberg give
you?

A He gave me a check.

MR. GALLUCCIO: Objection. Withdraw the
objection.

THE COURT: Go ahead.

A He gave me a check.

MR. SAGOR: Mr. Clerk, I previously marked
two checks Government's Exhibit 21 for identification
and a photograph Government's Exhibit 22 for
identification.

Q Now, did there come a time the next day that
you met Mr. Olesberg?

A Yes.

Q And what if anything did Mr. Olesberg give you
on the next occasion?

1 JWpa 18

Gorab-direct

2 A He gave me another check.

3 Q I ask you to look at the two checks before you.
4 Can you identify that?

5 A Yes.

6 Q As Government's Exhibit 21, I believe?

7 A Yes, they are. Those are the checks.

8 Q Can you identify those as the two checks
9 Mr. Olesberg gave you on those two occasions?

10 A Yes, sir.

11 Q Now, I show you a photograph in front of you.
12 Can you identify that photograph?

13 A Mr. Olesberg and myself.

14 Q Is that a picture of you as you appeared on that
15 day?

16 A Yes, sir.

17 Q That picture was not taken by you?

18 A No, sir.

19 Q Now, did there come a time a few days thereafter
20 that there was a meeting at your house between yourself,
21 your husband and Mr. Rodney?

22 A Yes.

23 Q And do you remember the date of that
24 meeting?

25 A October 6th.

1 JWpa 19

Gorab-direct

2 Q Prior to that meeting, what if anything did you
3 do with respect to the two checks that you have before you?

4 A Cashed them.

5 Q Do you know where?

6 A The Irving National Bank in Wyckoff.

7 Q What did you receive upon cashing the checks?

8 A The money from the checks.

9 Q How much money was there?

10 A \$2,500, I believe.

11 Q Now, did there come a time that you had seen
12 you told us on the 6th of October 1972 between yourself,
13 Rodney and your husband?

14 A Yes.

15 Q And how did the meeting come about? Was
16 there a telephone call prior to that meeting?

17 A Yes.

18 Q And do you remember who called who?

19 A No, sir, I don't know. I don't believe--

20 Q Do you remember the conversation?

21 A No, I believe he said to cash the checks,
22 he would be at the house.

23 THE COURT: Who said that?

24 THE WITNESS: I beg your pardon. Mr. Rodney.
25 Mr. Rodney.

1 JWba 20

Gorab-direct

2 Q Said what?

3 A To cash the checks and that he would be at the
4 house, that he would meet me there.

5 Q Can you tell us in your own words what
6 happened at your house on October 6, 1972?

7 A When he came to the house he said that he had
8 to take half of the money because the man was requiring a
9 larger share than had originally been planned and the man
10 said that if James Gorab wanted his share Rodney would have
11 to pay it out of his share of the money.

12 Q And how much if anything did you give
13 Rodney?

14 A All except \$625.

15 Q Do you remember the amount?

16 A I can't honestly think of it. All I know is
17 \$2,500 less \$625.

18 Q Whatever that is.

19 A Yes.

20 Q I direct your attention to a slip of paper
21 on the desk in front of you.

22 A This is the receipt.

23 Q And can you tell us what number you are reading
24 from?

25 A This is a receipt, Exhibit 2, it looks like,

JWpa 46

* * *

1 JWpa 46
2 specifically which one or all of them is referred to have
3 been perjurous by this defendant. Therefore, if the
4 Court please, although there is evidence before this
5 jury where it can reasonably infer that the first question
6 and answer thereto is perjurious, there is sufficient
7 evidence before this jury from which they can deduct that.
8 However, the subsequent questions that follow and the
9 answers thereto are not as clear because the question is,
10 the second one, "You are sure of that," and the answer is,
11 "Not that I remember, no, not at all."

12 And that question and answer in and of itself
13 does not mean that perjury has been committed. If the
14 defendant -- if the jury is going to be charged
15 that this defendant must have violated each of these
16 questions and answers before the government has
17 sustained its burden as to count number three, then I
18 ask that the count three be dismissed because although
19 there is sufficient evidence to sustain or to permit
20 a verdict as to the first question and answer, there is no
21 such testimony before this jury which would allow the
22 same inference of guilt be drawn concerning some of the
23 other questions without going into each of them specifically.

24 In the alternative to that, if the Court please,
25 I would request that the Court dismiss as a matter of law

1 JWpa 47

2 those questions and answers which can't be in and of
3 themselves perjurious and that is the question and answer that
4 I just alluded to. "You are sure of that?" Answer,
5 "Not that I remember, no, not at all."

6 And I ask that that particular question and
7 answer be dismissed by the Court. The only one that should
8 remain up until this point is the first question and the
9 first answer.

10 We go to the next question and answer, there -
11 is no testimony before this jury which would tend to
12 show that the defendant is guilty of the answer to that
13 question. "Now, did Mr. Gorab ever ask you, make or recommend
14 any investment by the Sewer Commission of any financial
15 institution," and the answer is, "Not to my knowledge,
16 he never directly asked anything -- for anything in the
17 way of C.D.'s."

18 There has been no testimony, as I understand
19 the testimony to be, that Mr. Gorab asked Mr. Sellarole
20 for anything in the way of these certificates of
21 deposit. There was testimony by Mr. Rodney to that
22 effect, but we are concerned with a count of perjury, it
23 must fall and rise on the testimony of Mr. Gorab and
24 not Mr. Rodney.

25 The next question that is asked is, "And that

1 JWpa 48

2 is a question I have asked you earlier this morning and
3 you have had some time to think about it, I take it,"
4 and the answer is, "Yes."

5 Well, that question and answer is mere
6 surplusage, it doesn't mean anything. It's contained in
7 the indictment and it has no substance to it. It does
8 not charge a perjurious remark, because the defendant --
9 and if it does there has been no showing that the answer,
10 "Yes," to that question has been proven by the government.
11 "And that is a question I asked you earlier this morning.
12 And you have had some time to think about it, I
13 take it," he answered, "Yes," to that. Has the government
14 proved that they didn't ask that question that morning?

15 In order for this to stay in the case, this
16 question and answer, and to be submitted to the jury,
17 the government would have to prove the contrary of that
18 answer which it has not done.

19 As to the last question and answer, the
20 question being, "And your answer is that
21 you have no recollection of any such conversation?"
22 And the answer is, "No, that is the answer, yes." Well,
23 that is sufficiently ambiguous because he says no first
24 and then he says that is the answer, seemingly qualifying
25 the no, then he says yes. So I don't even think there is

1 JWpa 49

2 so much of an ambiguity there that we don't even know what
3 the answer is in response to that question and it's not
4 cleared up by any later testimony.

5 So for these reasons, if the Court please,
6 I ask that all the questions and answers -- I ask that
7 count three be dismissed, judgement of acquittal entered
8 thereof as a matter of law, and, in the alternative,
9 if the Court please, if I might, that only the first
10 question and answer, which I recognize to be properly
11 before this jury, there is sufficient evidence, although
12 the defense disputes it, for the jury to find the
13 defendant guilty beyond a reasonable doubt.

14 That is the third count. Should I stop there?

15 THE COURT: Well, I think you might. Well,
16 what is your answer?

17 MR. SAGOR: Yes, Mr. Galluccio, I think, is wrong
18 on the law. First of all I think he understands that in
19 a perjury case every question and answer within a
20 specification must be perjurious for the government to
21 sustain a conviction and I think the law is
22 otherwise --

23 THE COURT: My instruction to the jury will be
24 that if they find any one answer false and perjurious that
25 is sufficient. It is not required that the government

1 JWpa 50

2 satisfy them of the falsity of the answer to every question
3 that is put.

4 What is your contention of falsity?

5 MR. SAGOR: I never answered, but I will go
6 down it with your Honor. I think this one is fairly simple,
7 question number one, "Have you had any conversation with
8 Mr. Gorab in any respect about placing the certificates of
9 deposit or any other investments with any other banks,"
10 answer, "No."

11 THE COURT: I think it would make it a much
12 simpler thing for the jury to pass upon it.

13 MR. SAGOR: We can underline all three.

14 THE COURT: I am going to grant Mr. Galluccio's
15 alternative motion to strike from count three all the
16 questions and answers after the first question and
17 answer and submit to the jury only the first question and
18 the first answer.

19 MR. SAGOR: I object to that. Let me
20 state why, your Honor.

21 THE COURT: It won't do you any good to object
22 because the government is not in a position to take any
23 appeal from my ruling in the event there is a not guilty
24 verdict.

25 MR. SAGOR: Let me spend 30 seconds here,

1 JWpa 51

2 your Honor, I have been on time. I suggest Mr. Galluccio
3 would be able to argue to the jury, one question was
4 perjurious I think is an unfair argument.

5 THE COURT: I think it presents a very
6 sharp question of fact for the jury, that first question
7 and answer, it's either false or not.

8 MR. SAGOR: How about, "No, I don't remember any
9 conversation with Mr. Gorab relative to C.D.
10 deposit"? Can I have that one?

11 THE COURT: You made that statement.

12 MR. SAGOR: That was the second statement.
13 May I have that one?

14 THE COURT: Send the jury the first question
15 and answer.

16 MR. GALLUCCIO: As to count number four, if
17 the Court please, --

18 MR. SAGOR: Wait a second, your Honor, I'm
19 sorry. It says, "Any other bank." I think there may
20 be a confusion. That may be technically true, he
21 may have spoken to them only about the Sterling Bank.
22 I didn't catch that before.

23 THE COURT: Where is that?

24 MR. SAGOR: Count three, the question is
25 technically any other bank, the preceding conversation in

1 JWpa 52

2 Government's Exhibit 16 I think is about the Sterling.

3 It may be that there was --

4 THE COURT: I don't follow you now.

5 MR. SAGOR: Sorry. In count number three,
6 the question that your Honor wants left in, the only
7 question is number one and if you read that carefully it
8 talks about placing a certificate of deposit or other
9 investment with any other banks. There may be an
10 inference here that we are talking about banks other than
11 Sterling. It seems to me the broader question, if your
12 Honor only wants one question, is the one down near the
13 bottom, so at least they have that question, too, so we
14 are talking about all banks, Sterling or any other banks.

15 THE COURT: Where are you referring to?

16 MR. SAGOR: Question number one, the one right
17 at the top, the one you want left in. The question is:
18 "Certificates of deposit or other investments with any
19 other bank." It doesn't say any banks. It talks about
20 other banks. There may be an inference we are not
21 talking about the Sterling Bank, we are talking about other
22 banking institutions.

23 I can look at the Grand Jury testimony and
24 see whether Sterling is mentioned in the preceding
25 sentences, not in the indictment.

The Sterling Bank appears on page 9 with

1 JWpa 53

2 respect to Mr. Rodney. This may be somewhat confusing,
3 your Honor, I can't help it. It's not my Grand Jury
4 testimony. Talking about placing of monies of Rodney in
5 any other bank. Sellarole's answer is Sterling Bank.
6 Then they talk about Gorab. Then the C.D.'s.

7 THE COURT: You can refer to it in your argument.

8 MR. SAGOR: Someone can make not a very good
9 argument, but an argument, that is what is being referred
10 to since the preceding reference to Sterling is banks other
11 than Sterling. It's possible Sellarole didn't have a
12 conversation with Gorab --

13 THE COURT: Wasn't there testimony about
14 Long Island banks?

15 MR. SAGOR: That was Olesberg and Gorab, not
16 necessarily communicated to Sellarole by Gorab and that
17 is what the question is about. In other words, this
18 question deals with Laneve's Restaurant meeting
19 and the Marriott Motel meeting when there was a
20 discussion of three more million with the Sterling Bank.
21 I think we should have the top question and the question
22 at the bottom as I suggested previously.

23 THE COURT: What is the other question?

24 MR. SAGOR: The other question, your Honor,
25 that I suggested, "You say directly. Has he ever

1 JWpa 54

2 indirectly asked for anything," and the answer is, "No,
3 I don't remember any conversation," --

4 THE COURT: I will amend my ruling to include
5 that question.

6 MR. GALLUCCIO: What question is that, your
7 Honor?

8 THE COURT: "You say directly. Has he ever
9 indirectly asked for anything?" Answer: "No, I don't
10 remember any conversation with Mr. Gorab relative to
11 certificates of deposit." All right.

12 Allright. Go to count four now.

13 MR. GALLUCCIO: Count four, the first
14 question that was asked, "Now, was there any discussion
15 concerning the placing of this certificate of deposit
16 about making any loans with any persons either connected
17 with you or any concern who was in any way involved with
18 negotiations concerning the certificate of deposit at the
19 Sterling Bank?"

20 The answer is, "No."

21 There is no testimony before this jury
22 concerning making of any loans. That is the crux of
23 this question and answer. There has not been a scintilla
24 of evidence produced by the government which would
25 substantiate or sustain this perjurious, alleged perjurious

JWpa 74

G. Sellarole-direct

Q To the best of your knowledge, prior to the summer of '72 did your dad know Mr. Gordon Rodney?

A No.

Q Where did you meet Mr. Rodney?

A I know it was in the tavern on Haledon Avenue, I believe in Haledon.

Q How many times had you seen Mr. Rodney before you ever had any conversation with him?

A Oh, I don't know; maybe once, twice.

Q Where were you at the time that you saw him?

A I was in Haledon, I worked that vicinity.

Q Now, do you recall under what circumstances you first met Mr. Rodney?

A Yes.

Q All right. And would you tell the jury please what were the circumstances under which you first met him?

A Well, as -- in my job I sell at various liquor stores and taverns, and we struck up a conversation, normal conversation, and we started to talk about construction and my family has been in that for years and I think he was selling some equipment and we were talking about sand and gravel and he gave me one of his cards.

Q And when he gave you one of his cards, did he

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1 JWpa 75

G.Sellarole-direct

2 announce the purpose or did you -- why he was giving you
3 the card, for what reason?

4 A No, just the normal salesman's gesture.

5 Q And when you indicated to him that your family
6 had been in that business for years, what if anything
7 else took place at that time?

8 A Well, nothing else took place.

9 Q All right. Was there any conversation at the
10 time about your father specifically?

11 A No. I don't believe so.

12 Q Did there come a time when you gave this
13 business card of Mr. Rodney's to your dad?

14 A Yes.

15 Q And do you recall how long after your first
16 meeting with Mr. Rodney was that?

17 A I don't remember.

18 Q Well, was it more like a day or more like a
19 month later, if you can approximate it?

20 A Well, I imagine I might have given him the
21 card within that week or so just in conversation.

22 Q When you gave the card to your dad what did you
23 indicate to him if anything?

24 A Well, the card said construction, equipment
25 and so on and maybe some soils and being in that business I

1 JWpa 76

G. Sellarole-direct

2 knew he might be interested.

3 Q And do you know whether your dad got in touch
4 with Mr. Rodney?

5 A I don't know for sure.

6 Q Okay. After you had given the card to your
7 dad did you still see Mr. Rodney in your travels?

8 A Occasionally. There was no set --

9 Q Okay.

10 A -- time.

11 Q Did there come a time that you went to a
12 Laneve's Restaurant, Borough of Haledon, New Jersey,
13 accompanied by your father?

14 A Yes.

15 Q And at that particular time did you meet one
16 James Gorab and Gordon Rodney?

17 A Yes.

18 Q Now, referring specifically to that particular
19 date, can you give us an approximate time when that was,
20 what part of the year?

21 A I think it was September, the end of the
22 summer.

23 Q Of what year?

24 A '72.

25 Q Okay. When you went to Laneve's

1 JWpa 77

G. Sellarole-direct

2 you went there with your father?

3 A Yes.

4 Q What was the reason for your going to
5 Laneve's with your father on that particular evening?

6 MR. SAGOR: Can we have conversation, your Honor,
7 not general testimony.

8 THE COURT: Yes, sustained.

9 Q You went to Laneve's with your dad. Do you
10 know what the purpose was, or did your father indicate to -
11 you why you were going to Laneve's?

12 A No.

13 Q Was there a particular reason why you were
14 going with him?

15 MR. SAGOR: Objection, your Honor. Can we
16 have the conversation?

17 THE COURT: Yes. Sustained.

18 Q Will you tell us the circumstances under
19 which you went with your father to Laneve's?

20 MR. SAGOR: Objection.

21 MR. GALLUCCIO: He can tell us the
22 circumstances.

23 THE COURT: Let him state what transpired.

24 MR. GALLUCCIO: Yes.

25 THE COURT: That is not what you are asking him.

140a

JWpa 78

G. Sellarole-direct

MR. GALLUCCIO: All right, your Honor.

Q You say in the end of September you went to Laneve's with your dad?

A Yes.

Q What transpired to make you go with your father on that particular day to Laneve's?

MR. SAGOR: Objection, your Honor. Can't we have conversation? Ask him what was said.

MR. GALLUCCIO: I will ask my own questions.

THE COURT: Objection sustained.

MR. GALLUCCIO: The Court will either sustain it or overrule it.

THE COURT: Objection sustained.

MR. GALLUCCIO: I do not choose to use the prosecutor's questions.

THE COURT: Objection sustained.

Q Mr. Sellarole, when you went to Laneve's Restaurant, which you place at the end of September, 1972, when you arrived there did you meet any other people?

A Yes, we did.

Q Who did you meet?

A Mr. Rodney -- Gordon Rodney, and Gorab -- Mr. Gorab.

Q This Mr. Gorab, did you know him prior to that date?

141a

JWpa 79

G. Sellarole-direct

1

2

A No, I didn't.

3

Q After that particular day did you ever see

4

Mr. Gorab again?

5

A No, I didn't.

6

Q Now, was there anybody else present other than

7

the one you testified to at the bar at Laneve's?

8

A There were other people at the bar.

9

Q With you?

10

A No.

11

Q All right. Tell us again who were the people

12

that were with you?

13

A Gordon Rodney, my pop and Mr. Gorab. I

14

don't know the --

15

Q Do you know what his first name is?

16

A Not particularly, I don't remember.

17

Q In any event, did you sit at the bar or at a

18

table?

19

A We were at the bar.

20

Q Will you tell us was there any conversation when

21

you first met Mr. Rodney and Mr. Gordon?

22

A Well, other than the introductions and we

23

talked about some cattle and breeding purposes.

24

Q And were you participating in that conversation

25

concerning cattle or breeding?

JWpa 80

G. Sellarole-direct

A Not really, no, nothing except for maybe small talk because it wasn't my matter.

Q Did you have any specific conversation with Mr. Gorab while you were seated at the bar?

A No, I didn't.

Q Was there any conversation prior to going to Laneve's -- just to go back for a moment -- was there any conversation prior to going to Lavene's with your dad as to why you were going to Laneve's with him?

A No, I just happened to be at my parents' home that night and he said, you know, "Why don't you just come with me?"

Q Getting back to the bar, you say there was conversation. Can you recall with any specificity anything about the conversation concerning cattle and breeding?

A Well, nothing in detail. I just knew -- it was interesting to me. I was listening to the point that there were some certain herd in Sussex County and some friend might be interested in breeding those. And that is it

Q How long did you stay at the bar?

A It wasn't very long. Maybe a half an hour, 45 minutes.

1 JWpa 81

G. Sellarole-direct

2 Q Did there come a time when you left the
3 bar to go to another room or to a men's room?

4 A I don't remember going to a men's room offhand.
5 I could have.

6 Q Did you at any time meet with Mr. Gorab away
7 from the bar and receive an envelope from him?

8 A No.

9 Q Did you at any time that evening receive any money
10 whatsoever from Mr. Gorab?

11 A No.

12 Q Did he hand you anything?

13 A Never.

14 Q Did he give you something to give to your
15 father?

16 A No.

17 Q Were you at any time away from the bar with
18 Mr. Gorab all alone?

19 A No.

20 Q How long did you --

21 Withdraw that.

22 Q Was there any other conversation that you can
23 recall other than this cattle and this breeding that you can
24 recall aside from this general talk?

25 A No.

1 JWpa 101

R. Sellarole-direct

2 A My wife and two sons.

3 Q Now, I direct your attention to the year 1972.

4 Were you a Commissioner with the Bergen County Sewer
5 Authority?

6 A I was.

7 Q And as a Commissioner of the Bergen County
8 Sewer Authority would you generally describe your function
9 as a member of that Authority?10 A The Sewer Authority is comprised of seven
11 Commissioners whose function is to administer the operations
12 and total administration of the Bergen County Sewer
13 Authority.14 Q As a member of that Commission, do you have
15 any responsibility towards investing Sewer Authority funds?

16 A Yes.

17 Q And how are funds of the Sewer Authority
18 invested?19 A In various areas -- federal paper,
20 treasury certificates and certificates of deposit.21 Q Now, specifically with certificates of deposit,
22 where did you get the money to buy certificates of
23 deposit?24 A The money is invested in these various types
25 of accounts or the result of a bond sale which took place

1 JWpa 102

R. Sellarole-direct

2 for the purpose of procuring funds for the existence
3 of our trunk lines to additional communities in New Jersey.

4 Q As a Commissioner of the Bergen County Sewer
5 Authority did you in fact place certificates or buy
6 certificates of deposit?

7 A Yes.

8 Q And how are certificates of deposit -- how do you
9 attract banks or institutions for these certificates of
10 deposit?

11 A Well, it's usually done by contacting banks,
12 if they are interested in receiving certificates of
13 deposit and based primarily on interest rates.

14 Q Is there a method whereby the Sewer Authority
15 would auction or advertise for banks to buy certificates of
16 deposit?

17 A No, the Bergen County Sewer Authority doesn't
18 advertise or auction.

19 Q Would you give us then how you solicit or find
20 out what banks are interested in certificates of deposit?

21 A Well --

22 MR. SAGOR: Objection to what he did or what
23 other people did. Can we have a question more adaptable in
24 form?

25 THE COURT: See if you can be more specific.

1 JWpa 103

R. Sellarole-direct

2 Q Well, what your function was as a Commissioner,
3 how would you go about soliciting or finding banks that
4 were interested in the certificates of deposit?

5 A Well, at the time of the initial sale in
6 March of '71, the sale of the bonds, that is, every
7 Commissioner took it upon themselves to seek the best interest
8 rate. Our interest on our bonds would average approximately
9 five and a half percent and it was the intent of all the
10 Commissioners to try to place investments that would
11 yield no less than five and a half percent interest so
12 there would be no pause for the money while we had it until
13 we spend it.

14 Q How do you go about then finding institutions
15 in banks against the deposits so this money could be
16 invested?

17 A Well, myself.

18 Q Yourself?

19 A At the time of the sale of the bonds this
20 money became available for construction and until
21 construction started, I would call banks throughout the
22 State of New Jersey for the purpose of finding out if they
23 would be interested and what the interest rates they
24 would pay.

25 Q Would you just briefly outline the procedure as

JWpa 106

R. Sellarole-direct

A I guess it would be in that area. I don't know.

Q Prior to seeing him at Laneve's Restaurant, the end of September, '72, had you ever met with him personally before that or was it just phone conversations?

A No, it was a phone conversation, and a meeting. We'd gone to look at a bank of sand up in Sussex around the airport area.

Q Now, specifically September of '72 when you met at Laneve's Restaurant, who was present?

A Just Gordon Rodney and myself.

Q And what was the discussion at that time?

A Well, the general conversation dealing in banks of sand, gravel banks and used equipment.

Q Did you discuss with him or did you mention with him that you were a Commissioner of the Bergen County Sewer Authority?

A I believe in conversation it might have come up.

Q To the best of your recollection how did it come up?

A Well, he was interested in knowing what type of work I did and I explained to him that general construction work and that I was also an appointed Commissioner of the Bergen County Sewer Authority.

1 JWpa 107

R. Sellarole-direct

2 Q And did you discuss at that time anything about
3 certificates of deposit or Bergen Authority investments?

4 A Well, at that time it was -- there was a very
5 unusual money market and I mentioned to him that it's
6 rather unusual that banks are not interested in money from
7 the Sewer Authority because of the unstable prime rate at
8 that time.

9 Q And we are talking about the summer of '72?

10 A Yes.

11 Q Was there in fact an unstable interest market
12 in the State of New Jersey at that time?

13 A Yes, there was. The prime rate was rather
14 low at that time.

15 Q After this meeting you say just you and Mr. Rodney
16 were present at Laneve's, did there come a time when you
17 went to Laneve's again and saw Mr. Rodney?

18 A Yes, I did.

19 Q And on this occasion who was with you?

20 A My son George was with me.

21 Q And who else did you meet at the bar or tavern,
22 whatever it is?

23 A I met Mr. Rodney and Mr. Gorab.

24 Q At this particular meeting was there anybody
25 else present other than the four people you mentioned?

JWpa 108

R. Sellarole-direct

A In the building, the room?

Q No, that were with you.

A No.

Q What was the conversation about at that bar?

A Oh, the purpose of the meeting was to meet with Mr. Gorab who was to have presented me with his recommendation for the improvement of this herd that we had gone to look at prior to this meeting.

Q When had you gone to look at this herd?

A I would say a week before on a Saturday.

Q Who did you go there with?

A Mr. Rodney and Mr. Gorab.

Q And on that particular occasion when the three of you went to look at the herd -- is this the cattle farm you are talking about?

A Yes, cattle.

Q And had you known Mr. Gorab before going to the cattle farm with him?

A No.

Q And who introduced you to Mr. Gorab?

A Mr. Rodney.

Q Did you discuss with Mr. Gorab anything about certificates of deposit?

A No.

150a

1 JWpa 109

R. Sellarole-direct

2 Q At any time even up until today?

3 A Oh, there might have been an occasion when
4 we discussed my being a Sewer Authority Commissioner.5 Q Getting back to when you were at the
6 meetings in the end of September '72 and you say the
7 four of you were present and you were discussing your trip
8 that you had taken the week before, was there any other
9 conversation about any other business enterprises or dealings?

10 A No, other than just regular chit-chat.

11 Q Did there come a time during that meeting that
12 your son got up along with Mr. Gorab and went away from the
13 bar?

14 A Not to my knowledge.

15 Q Did your son hand you an envelope?

16 A No.

17 Q Did you at any time receive from
18 Mr. Gorab, your son George Sellarole, Mr. Rodney at that
19 tavern any monies whatsoever?

20 A No.

21 Q How long did that meeting at Laneve's
22 take place?

23 A 20 minutes, a half hour.

24 Q And your son George -- what was his reason or
25 what did you say -- why did he come with you?

* * *

JWpa 114

R. Sellarole-direct

particular time anywhere?

A No, because the prime rate was somewhere around five and three-eighths. That fluctuates from day to day, an eighth up or down. And normally we were getting anywhere from an eighth to a quarter or three-eighths above the prime rate which is what generally was what most C.D.'s were carrying.

Q After your conversation with Mr. Sorkin, did you tell him what they would have to do if they wanted to finalize it and get a transfer?

A I told them the treasurer, Mr. Guido, would contact him to proceed with the arrangements for a C.D. if he met those requirements.

Q Did you speak with Mr. Sorkin after that, if you can recall, if you know?

A No, I didn't.

Q Was a transfer effectuated?

A Yes.

Q And did that take place on September 22nd, 1972?

A I believe that was the date.

Q Did you ever receive any monies or fees whatsoever for the placing of that certificate of deposit in the Sterling Bank?

A No.

1 JWpa 115

R. Sellarole-direct

2 Q Since that time with the Sterling Bank in
3 September of 1972 has any other certificate of
4 deposit been placed at the Sterling Bank?

5 A No, unless it transpired since I left the
6 Authority.

7 Q When did you first meet a person by the
8 name of Herb Olesberg?

9 A I first met him personally on October 13th,
10 1972.

11 Q October 13th?

12 A Yes.

13 Q Is there a reason why that particular date --
14 October 13th, what year?

15 A 1972. I stated that.

16 Q Where was that?

17 A In my office on Daniel Street in
18 Hackensach, New Jersey.

19 Q And who was present?

20 A Mr. Rodney, a Mr. Meli who was in the office
21 at the time.

22 THE COURT: Who?

23 THE WITNESS: Meli, M-e-l-i.

24 Q Yes?

25 A And a M. . Parisi had come in later on as I recall.

1 JWpa 116

R. Sellarole-direct

2 Q You say October 13th is when you met him personally?
3 Did you hear a tape of that conversation played?

4 A Yes, I did.

5 Q If I refresh your recollection would it be
6 more like October 31st instead of October 13th or was it
7 October 13th?

8 A No, it was October 31st, you're correct.

9 Q Was there a meeting on October 13th?

10 A I had some previous conversation on the phone
11 with Mr. Olesberg.

12 Q The first time you met him personally was
13 October 31st?

14 A 31st.

15 Q And your recollection is refreshed after I
16 tell you there is a tape of October 31st?

17 A Yes.

18 Q Prior to meeting him on October 13st, 1972, had
19 you spoken to him on the phone or any other means of
20 communication with him?

21 A Yes, I had occasion to speak to him.

22 Q How and about what?

23 A In reference to mortgages.

24 Q Who introduced you to Mr. Olesberg?

25 A Mr. Rodney gave me Mr. Olesberg's name.

* * * 154a

JWpa 122

R. Sellarole-direct

after this Laneve's meeting, what was it in connection with?

A It was in connection with the cattle.

Q And what was your discussion concerning it, what were you to do?

MR. SAGOR: Excuse me, your Honor, may we know where if the witness knows?

Q If you know, can you tell us where, whether it was on the phone or in person?

A It was in person.

Q Where was that, do you recall?

A At the Marriott Restaurant in Saddlebrook.

Q What was your discussion with Mr. Gorab concerning this cattle proposition?

A My purpose of meeting with him was to reprimand him for the procedures he followed in this cattle matter because of the personal situation of Doc Wager whose wife had terminal cancer and was on the critical list, and in all my previous conversations with him, I said, "Please don't disturb the doctor at this time with any of your cattle information. Provide me with a written report that I can submit to him. " And that was the purpose of the meeting at Laneve's is to get this report. And of course he was writing the

JWpa 123

R. Sellarole-direct

report on a paper napkin and I said, "This is no way to present a proposal to anyone on a matter of this type."

So at the meeting at the prior to that I had heard from the doctor who said that a Mr. Jim Gorab had been up to see him in reference to this cattle matter and he dismissed him immediately and that he didn't want to discuss it at that particular time. And that was my reason for meeting with Jim Gorab, to tell him that it wasn't very -- it wasn't very thoughtful of him to disturb a man at this time.

Q Did you hear Mr. Gorab testify about a meeting that took place at the Marriott Hotel?

A Yes.

Q Did you hear Mr. Gorab testify that there was supposed to be you and he agreed that somebody would be returned their money, namely, \$2,500?

MR. SAGOR: Objection, I didn't hear that testimony as such.

THE COURT: I will let him answer if he heard it.

Q Did you hear testimony to that effect?

A Yes.

Q Did such a conversation take place at the Marriott Hotel or any other place?

* * *

JWna 152

R. Sellarole-direct

1 money from, if you did?

2 A Mr. Olesberg.

3 Q How much did you receive from him?

4 A \$1,250.

5 Q When was that?

6 A October 10th, 11th.

7 Q And where was that?

8 A At a coffee shop adjoining or just down the
9 block from his apartment.

10 Q What was this money, this money that you say
11 he gave you, what was it for?

12 A He said it was part of a referral fee that I
13 was entitled to for the various projects I had
14 recommended to him.

15 Q Well, was it earmarked for a particular one
16 or not?

17 A Yes, he said this one was toward the
18 Vitale matter.

19 Q Did he tell you how much he received on
20

21 A He said he was splitting it with me, so I assume
22 it was \$2,500.

23 Q Just to go back for a moment, when you first
24 met Mr. Olesberg, had you known -- were you working on this
25

* * *

* * *

1 JWpa 174

R. Sellarole-direct

2 Q Now, if you need that transcript, Defendant's
3 Exhibit D marked for identification to refresh your
4 recollection, please feel free to use it.

5 At that particular time on January 11th, were
6 you home when Mr. Olesberg called you?

7 A No, I was in my office.

8 Q Okay. And in that conversation did Mr. Olesberg--
9 what was the conversation, how did it start, the conversation
10 with Mr. Olesberg on January 11th?

11 A Well, generally it started out with the Pinsky
12 matter.

13 Q And what was the next matter that you
14 discussed on January 11th?

15 A The Vitale matter.

16 Q And was there also -- all right. Now, did
17 Mr. Olesberg say anything to you concerning a transfer of
18 monies that were to be used for Mr. Vitale's benefit?
19 Was there anything said along those lines?

20 A Yes, Mr. Vitale, rather, Mr. Olesberg
21 indicated that he would have trouble placing a mortgage on
22 the Vitale matter and talked about getting a certificate
23 of deposit placed.

24 Q And could you tell us -- and if you need that to
25 refresh your recollection, please use it -- did you tell us

* * *

* * *

JWpa 183

R. Sellarole-direct

Q Was that in March of 1973?

A Yes, it was.

Q Was it more specifically March 13th, 1973?

A It was the 13th.

Q And how did you get an invitation to go before the Grand Jury?

A I was in a carwash line and two FBI agents came up to the car and identified themselves and indicated that they wanted me to appear before a Grand Jury in New York.

Q When -- I'm sorry, did I interrupt you? Go ahead.

A And they I think at that time mentioned in relation to a Sewer Authority matter.

Q When was that?

A The morning of March 13th.

Q And you appeared on the 13th, the same day?

A Yes, I did.

Q Did they give you a subpoena, did they ask you to come voluntarily or what?

A They asked me to come.

Q Did they give you a subpoena to come?

A No.

Q Before you went over, did you consult any attorney or anything?

A No, I didn't.

* * *

* * *

1 JWpa 189

R. Sellarole-direct

2 A Yes, I did.

3 Q And what day was that in relation to the 13th?

4 A I believe it was two days after.

5 Q And did you see me at my office?

6 A Yes, I did.

7 Q And how long did we meet, if you can recall?

8 A Approximately an hour.

9 Q Did there come a time that you came to my
10 house, my personal residence?

11 A Yes.

12 Q When was that?

13 A That was on a Saturday following my retaining
14 you.

15 Q Would that be March 17th?

16 A It could be, I'm sorry, whatever date.

17 Q Saturday following?

18 A It was the Saturday following.

19 Q When you came to my house on that Saturday, who
20 was with you?

21 A Mr. Gordon Rodney.

22 Q Did you have an appointment to come to my house?

23 A No, I didn't.

24 Q And when you arrived at my house, was I home?

25 A Yes, you were.

* * *

JWpa 191

R. Sellarole-direct

1 A "Bob, is there something I can do for you,"
2 something of that nature.

3 Q What was your answer?

4 A I said that, "Mr. Rodney is looking for
5 legal counsel."

6 Q And what did I say?

7 A You said, "I couldn't represent both of you
8 in this matter."

9 Q Was there any discussion about any fact whatso-
10 ever concerning my representing you?

11 A No.

12 Q Did I ask you about any facts of the case?

13 A No.

14 Q Did I ask Mr. Rodney anything about the facts
15 of the case?

16 A No.

17 Q Did you make any admissions to me in front of
18 Mr. Rodney at my house on that Saturday following March 13th
19 before your appearance at the Grand Jury?

20 A No.

21 Q How long were you at my house on that
22 Saturday morning?

23 A No more than 15 minutes, probably less.

24 Q Did I discuss with Mr. Rodney anything about
25

* * *

1 jwlm 73

Sellarole-cross

2 in business.

3 Q And Mr. Riviello was at the house on the 17th where
4 you were there and Mr. Rodney was there?

5 A No, I don't believe Mr. Riviello was with us on that
6 occasion. I was with Rodney that day.

7 Q Oh, Riviello was not there?

8 A No, he was not there to my knowledge at the house.

9 Q Only at the house was you and Mr. Rodney and
10 Mr. Galluccio; correct?

11 A Correct.

12 Q Now, how did you get to the house?

13 A Drove there.

14 Q Did Mr. Riviello drive you there?

15 A I believe I drove the car, my car.

16 Q And who was in the car with you?

17 A Mr. Gold -- Rodney.

18 Q Only?

19 A Yes, the two of us.

20 Q And where did you pick Mr. Rodney up?

21 A I don't recall. Oh, yes, I do recall. I believe it
22 was on Goethals Road. There is a tavern there, right where
23 208 crosses Goethals Road.

24 Q And you picked him up at the tavern?

25 A Beg your pardon?

* * *

1 jwlm 75

Sellarole-cross

2 A Uh hum.

3 Q And according to your testimony yesterday you told
4 Mr. Galluccio -- you told Mr. Galluccio you made no admissions
5 to him that you received any cash fees in connection with time
6 deposits; right?

7 A Any admissions to Mr. Galluccio?

8 Q Yes, you never told Mr. Galluccio that you had ever
9 received any cash fees from time deposits; right?

10 A That's correct.

11 Q At his office.

12 A At any time.

13 Q At any time.

14 Can you tell the members of the jury what
15 Mr. Galluccio said with respect to not being able to
16 represent Mr. Rodney?

17 A Nothing other than he could not represent both of
18 us in this matter.

19 Q Did he say why?

20 A No, he didn't.

21 Q As far as you understand this matter, there were no
22 bribe payments to any public officials; correct?

23 A That's correct.

24 Q And as far as you understand this matter then
25 Mr. Rodney, as you understand it, committed no crimes because

163a

1 jwlm 76

Sellarole-cross

2 there were no bribe payments to any public officials?

3 A That's correct.

4 Q And did Mr. Galluccio explain to Mr. Rodney why if
5 there were no bribes committed here he couldn't represent the
6 both of you?7 A No, Mr. Galluccio's only statement was he couldn't
8 represent both of us on the matter.9 Q What else did you discuss at that time at
10 Mr. Galluccio's house?11 A Nothing pertaining to the case. He said he
12 couldn't talk about it.13 Q Did Mr. Galluccio have a yellow pad at his house
14 on that day?15 A I don't recall that. I imagine every attorney
16 carries a yellow pad.17 Q Did he use a yellow pad during the course of the
18 conversation with you and Mr. Rodney?

19 A No, we were having coffee, his wife served coffee.

20 Q And was his wife present throughout the conversation?

21 A No.

22 Q You also, I think, said yesterday that there was no
23 meeting that took place in the sand pit between you and Rodney.

24 A On the nights you referred to.

25 Q Did it take place on any other night?

* * *

1 jwlm 102

2 AFTERNOON SESSION

3 2:00 p.m.

4 (Jury present.)

5 THE COURT: You may proceed.

6 MR. SAGOR: The Government calls David Hynes.

7
8 D A V I D C. H Y N E S, called as a witness
9 by the Government, being first duly sworn, testified
10 as follows:

11 MR. SAGOR: May we proceed, your Honor?

12 DIRECT EXAMINATION

13 BY MR. SAGOR:

14 Q Mr. Hynes, I show you what has previously been
15 marked Government's Exhibit 26 for identification.

16 Mr. Hynes, how are you employed?

17 A I am employed as vice president and treasurer of
18 the Interchange State Bank, Saddle Brook, New Jersey.

19 Q How long have you been vice president and treasurer
20 of the Interchange Bank?

21 A Approximately four years.

22 Q Pursuant to subpoena did you arrive during the
23 recess of the Court bearing certain records of Robert C.
24 Sellarole's personal checking account at that bank?

25 A Yes, I did.

1 jwlm 103

llynes-direct

2 Q And can you identify Government's Exhibit 26 for
3 identification as those records?

4 A Yes, I can.

5 Q Are they photocopies made from microfilm of the
6 original bank records?

7 A Photocopies of the original -- duplicate of the
8 statement.

9 Q And were they made by the bank in the ordinary
10 course of the bank's business?

11 A Yes.

12 Q And are they kept by the bank in the ordinary course
13 of the bank's business?

14 A Yes.

15 Q And do those records reflect a cash deposit on
16 September 29th, 1972?

17 A Yes, it does.

18 Q And can you tell from those records, without telling
19 us at this time the nature of the deposit slips, whether by
20 cash or check?

21 A By cash.

22 Q Can you tell us whether there is any other deposit
23 in the month of September, October, November or December
24 other than the one cash deposit you just mentioned?

25 A There was no other deposit, sir.

1 jwlm 104

Hynes-direct

2 MR. SAGOR: 26 for identification is offered.

3 MR. GALLUCCIO: May I have the last answer.

4 THE COURT: Read the question and answer, please.
5 (Last question and answer read.)

6 MR. GALLUCCIO: May I have a moment, your Honor?

7 THE COURT: Yes.

8 (Pause.)

9 MR. GALLUCCIO: No objection. It is accurately
10 reflected.

11 (Government Exhibit 26 for identification
12 received in evidence.)

13 BY MR. SAGOR:

14 Q Mr. Hynes, would you circle for us with a red pen
15 the date of the deposit that you referred to just a moment
16 ago.

17 MR. GALLUCCIO: It is in evidence. I object. It
18 is in evidence. It speaks for itself.

19 THE COURT: He may mark it up.

20 Q And September 29th, 1972; is that it?

21 A Yes, it is.

22 Q How much is the deposit for?

23 A \$2,000.

24 Q Is that cash or check?

25 A Cash.

1 jwlm 105

llynes-direct

2 Q Can you tell us how you know it's cash?

3 A There is a deposit ticket attached here that
4 indicates that it's a cash deposit.

5 Q Would you circle the indication on the deposit
6 ticket as that is a cash deposit?

7 According to the documents you have there, there
8 are no other deposits for that account during the period
9 reflected?

10 A Would you repeat that.

11 Q Yes, according to the document you have there, the
12 months of September, October, November and December, there
13 are no other deposits?

14 A No other deposits.

15 MR. SAGOR: No further questions.

16 MR. GALLUCCIO: I have no questions of this witness.

17 THE COURT: Call the next witness, please.

18 MR. SAGOR: Your Honor, may I have 26-B shown to
19 the jury?

20 THE COURT: Yes.

21 You are excused.

22 (Witness excused.)

23 MR. GALLUCCIO: Your Honor, while the jury is
24 viewing that, may we approach the bench on another legal
25 matter?

1 jwlm 106

2 THE COURT: Yes.

3 (At the bench.)

4 MR. GALLUCCIO: I just want the Court to know how
5 -- I don't have to bring it to the attention of the Court,
6 but I don't want a repetition of yesterday, so that's why I
7 am saying the defendant is going to be called back on the
8 stand to show where that \$2,000 came from, because there is
9 a perfectly logical explanation of it.

10 MR. SAGOR: If you tell me about it, I will be glad-
11 to withdraw the exhibit.

12 MR. GALLUCCIO: I don't have to call the witness on
13 rebuttal, I will tell it to him. I don't want anybody to say,
14 "Well, this is overnight" --

15 THE COURT: There is no question of your right to
16 call the defendant on rebuttal, surrebuttal.

17 MR. GALLUCCIO: I just want to bring it to your
18 attention.

19 THE COURT: You don't say he hasn't a right to call
20 the defendant?

21 MR. SAGOR: Not in the least.

22 THE COURT: No problem about that.

23 (In open court.)

24 MR. SAGOR: The Government calls Mr. Pickett. I
25 believe he's outside the courtroom.

1 jwlm 107

2 W I L L Y J A M E S P I C K E T T, called as
3 a witness by the Government, being first duly sworn,
4 testified as follows:

5 DIRECT EXAMINATION

6 BY MR. SAGOR:

7 Q Mr. Pickett, how are you employed, sir?

8 A By New Jersey Bell Telephone Company.

9 Q How long have you been with New Jersey Bell?

10 A About six years.

11 Q Do you have in your possession pursuant to subpoena
12 certain hold records of a Robert Sellarole and also hold
13 records concerning Number 342-1175 for the months of
14 October, November and December?

15 A And January.

16 Q And January -- part of January.

17 MR. SAGOR: Mr. Clerk, may these be marked
18 Government's Exhibit 27 for identification, both numbers?

19 (Government Exhibit 27 marked for
20 identification.)

21 MR. SAGOR: 27 for identification, Mr. Clerk, will
22 be Number 342-1175.

23 And Government Exhibit 27-A for identification will
24 be a listing for Robert C. Sellarole.

25 MR. GALLUCCIO: Do you have a number for that one?

* * *

1 jwlm 115

Olsberg-direct

2 Q And where was the office?

3 A 12 East 41st Street, Manhattan.

4 Q And did you also do business at home?

5 A Yes, sir, I did.

6 Q And can you tell us what your home telephone number
7 was?

8 A 249-3554.

9 Q And if you remember, do you remember what your
10 office number was?

11 A 679 -- I really don't remember it now. It's OR9.

12 Q We'll come back to it.

13 A Thank you.

14 Q Presently are your living expenses being furnished
15 by the Federal Government?

16 A Yes, sir, they are.

17 Q Now, did there come a time in September 1972 when
18 you engaged in an undercover capacity for the FBI?

19 A Yes, sir, I did.

20 Q And when did that come about, Mr. Olsberg?

21 A That came about approximately the first week of
22 September 1972.23 Q And did there come a time that you became a witness
24 in various state and federal prosecutions?

25 A Yes, sir.

* * *

1 jwlm 117

Olsberg-direct

2 A I was placed on parole, Mr. Sagor.

3 Q Was that in connection with the '66 offense that
4 you just told us about, Mr. Olsberg?

5 A Yes, sir.

6 Q And did there come a time when you violated that
7 parole?

8 A Yes, sir.

9 Q And how did you violate the parole?

10 A By leaving the State of California and moving to
11 New York and Miami, Florida, and back to New York.12 Q Approximately when did you leave the State --
13 California, did you say?

14 A Yes, sir, approximately 1970.

15 Q Now, did there come a time in September 1972 that
16 you were given a body recording device to wear in connection
17 with the information in this case?

18 A Yes, sir.

19 Q And what date was that?

20 A May I refresh my recollection?

21 Q Mr. Olsberg, by the way, if you refer to anything
22 there, would you have the Court Clerk mark it so Mr. Galluccio
23 knows what you are referring to and I know what you are
24 referring to?

25 A Okay. I have some notes here.

1 jwlm 118

Olsberg-direct

2 Q Well, let's mark that as Government's Exhibit 28
3 for identification. And if you look at that to refresh your
4 recollection in any way, tell us what you are looking at,
5 what particular exhibit. Okay?

6 A I will

7 (Government Exhibit 28 marked for
8 identification.

9 Q Now --

10 A On or about September 22nd, I believe is the date, --
11 sir.

12 Q Did there come a time on that date that you had a
13 conversation with one James Gorab?

14 A Yes, sir, I did.

15 Q And was that monitored by the FBI?

16 A Yes, sir, it was.

17 Q Would you explain to the members of the jury what
18 you mean by the term "monitored"?

19 A Well, I was wearing what is known as a Kel unit.
20 It's a body recording device and it transmits for a certain
21 distance and it's picked up by the FBI agents who are either
22 maybe in an automobile, maybe adjacent to you in another
23 room.

24 Q On the 22nd of September, while you were talking
25 with Mr. Gorab, where was the FBI placed?

1 jwlm 119

Olsberg-direct

2 A They were in the closet of my apartment.

3 Q Was that with your consent?

4 A Yes, sir, I had signed a consent.

5 Q Do you know what agents were in the closet?

6 A William Fleisher and Mark Boland, B-o-l-a-n-d.
7 Possibly a third one, I don't remember.

8 Q How much prior to September 22nd, 1972 did you
9 mention to the FBI any information that you had concerning
10 the Bergen County Sewer Authority?

11 MR. GALLUCCIO: Objection.

12 I will withdraw the objection.

13 A On or about September 20th, 1972.

14 Q Was that the first time on September 20th, 1972
15 that you received any information concerning the Bergen County
16 Sewer Authority?

17 A Yes, sir.

18 Q And upon giving to the FBI -- by the way, when I
19 say FBI, was there a particular person I am referring to or
20 you were referring to?

21 A Yes, sir, I was supervised by William Fleisher,
22 the agent sitting here.

23 Q Now, can you tell us whether upon giving
24 Mr. Fleisher that information on September 20th, 1972 you
25 were given any specific instructions concerning your

1 jwlm 120

2 undercover work?

3 A Yes, sir, I was.

4 Q What were those instructions?

5 A To obtain the evidence, if possible.

6 Q Now, did you attend Gorab's wedding on October 1st,
7 1972?

8 A I did, yes, sir.

9 Q And were you similarly wearing a body recorder at
10 that time?

11 A Yes, sir, I was.

12 Q And will you tell us whether Mr. Fleisher at that
13 time was monitoring the conversation?

14 A Yes, sir, Mr. Fleisher was monitoring the conversa-
15 tion from a truck.

16 Q From where?

17 A A truck, parked in a parking lot.

18 C Did there come a time after the wedding in early
19 October when you gave Mrs. Gorab something?

20 A Yes, sir, I did.

21 Q What if anything did you give her?

22 A I gave Mrs. Gorab two checks of two consecutive
23 dates.

24 Q And who gave you those checks?

25 A Those checks were given to me by Jack Lamont and

* * *

1 jwlm 122

Olsberg-direct

2 Q Certainly. Now, if you refer to anything aside
3 from 26 for identification, tell us.

4 A On October 2nd I had a phone call, a conversation
5 with Mr. Gorab, and then again on October 17th I had a phone
6 conversation with Mr. Gorab.

7 Q I meant -- I'm sorry, Mr. Olsberg, if I didn't make
8 myself clear, Mrs. Gorab -- Jean Gorab.

9 A Oh, Jean Gorab. I had a number of conversations
10 with Mrs. Gorab, but on the 15th of October, I believe it was,
11 I had a conversation with Mrs. Gorab whereby she gave me
12 Gordon Rodney's telephone number and told me to call Gordon
13 Rodney who I had not met prior to that.

14 Q Can you tell us whether it was prior to October 15,
15 1972 you had ever heard the name Gordon Rodney before?

16 A No, I never had heard the name.

17 Q And on October 15th Mrs. Gorab gave you Rodney's
18 number?

19 A Yes, she did.

20 Q What happened then?

21 A She asked me to call Mr. Rodney that day. I in fact
22 called Mr. Rodney on the 15th, at which time Mr. Rodney gave
23 me a pay phone telephone number and told me to call him the
24 next day on the 16th at that pay phone number.

25 Q When you spoke to -- did there come a time that you

* * *

* * *

1 jwlm 127

Olsberg-direct

2 MR. SAGOR: Strike that.

3 Q In your conversation with Mr. Sellarole, on
4 October 31st, 1972, did there come a time in that conversation
5 where there was a discussion about a possible deal concerning
6 one Caesar Vitale?

7 A I'm not sure if it was in that meeting or in a phone
8 call after that. May I refresh my recollection?

9 Q Certainly.

10 A I believe, Mr. Sagor, to the best of my ability
11 that the conversation about Caesar Vitale came up at a later
12 time than the phone call that Mr. Sellarole made to me.
13 Unless it's in the transcript, I would have to look at the
14 transcript.

15 Q Well, it's a matter of record here, Mr. Olsberg,
16 you are saying that on October 31st, '72, or thereafter the
17 matter was raised with Mr. Sellarole about Caesar Vitale;
18 correct?

19 A That is absolutely correct.

20 Q Did there come a time when you actually met
21 Mr. Vitale?

22 A Yes, sir, there did.

23 Q When was the time you met Caesar Vitale?

24 A I met Mr. Caesar Vitale on November 12th, 1972, my
25 apartment, 300 East 74th Street in Manhattan.

* * *

* * *

jwlm 133

Olsberg-direct

Q I show you, Mr. Olsberg, Government's Exhibit 10-A.
Would you look at I think page 2?

MR. GALLUCCIO: Objection. He's the Government's
witness and he is leading this witness, your Honor.

THE COURT: It may be shown for the purpose of
refreshing his recollection, please.

MR. GALLUCCIO: Only the witness can ask to have a
matter --

THE COURT: You stated your objection. I must ask
you again when you state the grounds of your objection, don't
argue it.

A Yes, sir, Mr. Sellarole states that he would just as
soon return the material, referring to the money.

Q And what money did you understand Mr. Sellarole to
be talking about?

A \$1250.

Q What \$1250?

A This \$1250 was half of the \$2500 that was given to
Mrs. Jean Gorab.

Q Did that \$1250 have anything to do with, to your
knowledge, Caesar Vitale or any money you gave Robert
Sellarole?

A No, this had nothing to do with any money, because
I received no money from Caesar Vitale. This has to do as I

1 jwlm 134

Olsberg-direct

2 stated here \$2500 I had given to Mrs. Gorab for the transfer
3 of a one million dollar title deposit. These funds were
4 given to me by Jack Lamont and Herb Slaitin for that purpose.

5 Q Mr. Olsberg, did you ever give Mr. Sellarole any
6 money in cash?

7 A No.

8 Q Did you ever give him any check?

9 A No.

10 Q Did the FBI give you any money to give to
11 Mr. Sellarole?

12 A Absolutely not, sir.

13 MR. GALLUCCIO: I object and ask that the last
14 question and answer be stricken. There is no indication in
15 this defense that the defense ever indicated the FBI ever
16 gave this man money to give to Mr. Sellarole.

17 THE COURT: Overruled.

18 Q Mr. Olsberg, do you have before you the October 31st,
19 1972 transcript?

20 A Yes, sir, I do.

21 Q And for the record let me give you the copy that is
22 in evidence.

23 MR. GALLUCCIO: May I just have the exhibit number?

24 MR. SAGOR: 5-A.

25 Q By the way, Mr. Olsberg, when did you first review

1 jwlm 135

Olsberg-direct

2 with me in detail the facts of this case?

3 A Sometime ago, Mr. Sagor, on a trip into New York
4 City. Quite a while ago on a trip into New York City.

5 Q Now, directing your attention to page 28 --

6 MR. SAGOR: Your Honor, I will try to go very
7 rapidly at this point.

8 THE COURT: Go ahead.

9 Q Mr. Olsberg, without going into it word by word,
10 look at the bottom half of the page and you see Rodney said,
11 "Bob, as I mentioned Herb here is my good friend and my man
12 in New York."

13 Do you see that colloquy that starts in the middle
14 of the page?

15 A Yes, sir, I do.

16 Q And do you see Olsberg saying, "Mr. Zalkin, there
17 at Sterling - that's all, you know." And, "Herb, there are
18 certain procedures." I won't go on with the conversation, I
19 think you are all familiar with it.

20 Can you tell the members of the jury what you are
21 discussing with Mr. Sellarole and Mr. Rodney at that time?

22 A We were discussing time deposits or transfers of
23 Bergen County Sewer Authority funds.

24 Q And with respect to what bank, if any?

25 A With the Sterling National Bank in Manhattan,

jwlm 138

* * *
Olsberg-direct

1 third up from the bottom where Sellarole starts to say, "So,
2 we have constant roll overs in small amounts"?
3

4 A Yes, sir.

5 MR. GALLUCCIO: Objection.

6 THE COURT: What's the objection?

7 MR. GALLUCCIO: It's leading. The prosecutor is --

8 THE COURT: Direct his attention to it. Point it
9 out to him.

10 MR. SAGOR: If I can stand up here, your Honor --

11 THE WITNESS: I have it, Mr. Sagor.

12 Q Do you have it now, before you?

13 A Yes, I do.

14 Q November of what year do you understand Mr. Sellarole
15 to be talking about?

16 A 1972.

17 Q And what if anything would be happening in November
18 1972?

19 A There was a transfer of a million dollars supposed
20 to be made to Sterling National Bank in November of 1972.

21 Q And then you say "a date that I can say to the guy."
22 What are you talking about?

23 A This is referring to telling him to listen to
24 Mr. Zalkin and Mr. Lamont.

25 Q And what if anything would they do?

* * *

jwlm 144

Olsberg-direct

Q A deal, I believe.

A Yes.

Q Is there also a discussion about a time policy?

A Yes, sir.

Q And directing your attention to page 19 of the conversation, do you see down from the middle, "Ah, Rod tells me there's a chance this other thing might be moved faster - maybe"?

A Yes, sir, I do.

Q What does that "other thing" refer to?

A The "other thing" refers again to the very same time deposit of a million dollars that had not been transferred.

Q Does it refer in any way to a mortgage?

A No, sir, this is not a mortgage, Mr. Sagor. This is a time deposit that had been paid for by Mr. Lamont and Mr. Slaitin, \$2500, which I had delivered to Mrs. Gorab in two payments for the transfer of a million dollars at the direction of Mr. Lamont and Mr. Slaitin.

Q Did you ever have a conversation with Mr. Rodney -- or is he referred to sometimes as Rod?

A Rod or Gordon.

Q Okay. But the Rod refers to Mr. Rodney?

A Right.

Q Did you ever have a conversation -- forget what's

1 jwlm 151 Olsberg-direct

2 Q Mr. Olsberg, you were discussing the five million
3 dollar potential time deposit transfer, and we are on page 23
4 of Government's Exhibit -- the one of the 9th, remember?

5 A Yes, sir.

6 Q Now, on page 24, Mr. Sellarole completes the
7 sentence, "It depends on how we place that."

8 Do you remember that?

9 A Yes, sir.

10 Q Now, you say, "Well, what I really want to know is,
11 you know -- I got a place for it, in Long Island."

12 What are you referring to?

13 A The Bank of Long Island.

14 Q And Sellareole says, "Can't you find any banks
15 locally?"

16 A Yes, sir.

17 Q Banks for what purpose?

18 A For the transfer of time deposits from the Bergen
19 County Sewer Authority.

20 Q What if anything did that have to do with mortgages?

21 A Nothing, Mr. Sagor. It was not a mortgage.

22 Q Then you say, "Yeah, I can find a few banks locally
23 too, but I uh my deal there is if you understand what I'm
24 talking about."

25 What were you talking about?

1 jwlm 164

Olsberg-direct

2 THE WITNESS: Gordon Rodney and James Gorab.

3 Q Mr. Sellarole says, "This SOB, I'd rather give him
4 his dough back." Who if anybody is he referring to?

5 A Well, he's referring to James Gorab and to people
6 that gave the money to Gorab through me.

7 Q About November 13th, or on November 12th, did you
8 have a conversation with Rodney concerning a tel --

9 A Yes, I did.

10 Q First of all, when did the conversation take place?

11 MR. GALLUCCIO: The prosecutor just told us when it
12 took place.

13 MR. SAGOR: It's perfectly proper.

14 MR. GALLUCCIO: I must say it's perfectly improper.

15 THE COURT: The jury will disregard the statements
16 by both counsel, and I don't understand the shouting and
17 yelloing. If you make the objections, I will rule. If I
18 permit the question and the answer is received, it's in
19 evidence. Put your question.

20 Q Yes, Mr. --

21 A I first had a telephone call from Mr. Gordon Rodney.
22 I was at my home at the time the call came through and he
23 started to tell me that he received a telephone call from
24 James Gorab and Mr. Gorab had threatened to blow the whistle
25 on him and Mr. Sellarole unless he received \$20,000.

1 jwlm 165

Olsberg-direct

2 At that point I stopped Mr. Rodney in his conversa-
3 tion, and I told him "I don't want to talk on my telephone,
4 I'll call you back."

5 I probably promptly contacted the FBI and went over
6 to their office and I called Mr. Gordon Rodney back. And
7 that conversation is recorded where he stated that Mr. Gorab
8 threatened him with exposure and Mr. Sellarole with exposure
9 if in fact he didn't give them the \$20,000.

10 Q Now, on page 30 of the transcript Sellarole says,
11 "Look, any guy who would do what he did is dangerous."

12 Who is Sellarole talking about there, if you know?

13 A He was talking about James Gorab.

14 Q And then he says, "And uh" and -- I'm sorry, you
15 say, "And uh." And Sellarole says, "Like cancer."

16 Who is he talking about?

17 A James Gorab.

18 Q Anyway, did Mr. Sellarole refer to Mr. Vitale "like
19 cancer"?

20 A No, sir, because the telegram and the threatened
21 call came from Mr. Gorab.

22 MR. SAGOR: May I have just one moment, your Honor?

(Pause.)

23 Q Mr. Olsberg, did there come a time that you received
24 money from Gordon Rodney in connection with some T.V. I believe?

1 jwlm 166

Olsberg-direct/cross

2 A Yes, sir, I did.

3 Q Do you remember how much that was?

4 A Approximately a thousand dollars or a little over.
5 I don't remember the exact amount.

6 Q Did you provide Mr. Rodney with any of those T.V.'s
7 when he gave you the thousand dollars?

8 A No, sir, I did not.

9 Q And will you tell the members of the jury why not?

10 A Yes, sir. All during the time that I was dealing
11 with Mr. Rodney, Mr. Rodney kept getting money from me,
12 constantly getting money from me. At one time he was
13 advanced \$500. This was money that was given to me by the
14 FBI and thereafter it was always fifties and hundreds and
15 twenties to well over a thousand dollars out of my own
16 pocket.

17 MR. SAGOR: No further questions.

18 THE COURT: All right, you may cross-examine.

19 CROSS-EXAMINATION

20 BY MR. GALLUCCIO:

21 Q First of all, Mr. Olsberg, you said that you needed
22 an exhibit to refresh your recollection. What did you use to
23 refresh your recollection?

24 A What did I use?

25 Q Yes.

* * *

1 jwlm 168

Olsberg-cross

2 need this at any time to refresh your recollection, please
3 feel free to ask me for it.

4 Did you at any time ever give a signed statement to
5 the Government in connection with this matter?

6 A A signed statement?

7 Q Yes. In other words, a statement of the chrono --
8 you know, the sequence of events from September until whenever
9 you stopped working in this matter.

10 A Yes, sir, from time to time I wrote a report to
11 Mr. Fleisher.

12 MR. GALLUCCIO: May I have those, your Honor?

13 MR. SAGOR: You have all Mr. Fleisher's reports.

14 MR. GALLUCCIO: Excuse me, maybe I misunderstood.

15 Q Did you ever submit written reports to Mr. Fleisher?

16 A Yes, sir, I did.

17 MR. GALLUCCIO: May I have a moment to speak to the
18 U.S. Attorney, your Honor?

19 (Pause.)

20 MR. GALLUCCIO: The U.S. Attorney -- may we approach
21 the bench, your Honor?

22 THE COURT: You may.

23 (At the bench.)

24 MR. GALLUCCIO: Judge, just so I have the proper
25 questions, maybe I misunderstood. May we have the reporter

1 jwlm 169

Olsberg-cross

2 read back the last three questions and answers?

3 THE COURT: There is no need to read it back. I
4 recall what was said. What's the problem?

5 MR. GALLUCCIO: He said in connection with this
6 matter he gave a report to Mr. Fleisher. They said they
7 don't have any.

8 MR. SAGOR: It's true, maybe he destroyed them in
9 making out the reports.

10 THE COURT: I will have a hearing on that if you
11 want it.

12 MR. SAGOR: All the 3500 material was turned over
13 to the defendant, '70.

14 MR. GALLUCCIO: I have Mr. Fleisher's reports.

15 THE COURT: If you want a hearing on what he did
16 with the reports, the witness said he turned it over, I will
17 give you a hearing on it.

18 MR. GALLUCCIO: Let me pursue it further.

19 THE COURT: All right.

20 (In open court.)

21 BY MR. GALLUCCIO:

22 Q Mr. Olsberg, these written reports that you turned
23 over to Mr. Fleisher from time to time are in connection with
24 this matter, would you say that these reports were spaced
25 about a week apart or a month apart or a day apart,

1 jwlm 170

Olsberg-cross

2 approximately?

3 A They were varied and frequent.

4 Q To the best of your recollection.

5 MR. SAGOR: I object until we establish how many
6 such reports there are. We're sort of speculating what the
7 spacing is between the reports. Once we establish how many
8 there were, then I have no objection.

9 Q How many were there, can you recall that?

10 A I can't recall. I probably wrote five or six or
11 seven reports.

12 Q And that's from the beginning of September -- or
13 sometime in September until January -- sometime in September
14 '72 until January '73?

15 A Yes, sir.

16 Q All right. And approximately five or six, it
17 could have been four, it could have been seven.

18 And where did you turn over these reports, at your
19 apartment, or at the FBI office in this building, or not this
20 building, some other building, where was that?

21 A Sometimes I turned it over to Mr. Fleisher in my
22 apartment, sometimes I turned it over to him in the FBI
23 building.

24 Q And these you wrote out yourself, you didn't type
25 them, did you?

* * *

1 jwlm 173

Olsberg-cross

2 THE COURT: Yes.

3 Well, after you turned these reports over to
4 Mr. Fleisher, did you ever see them thereafter?

5 THE WITNESS: No, sir.

6 MR. SAGOR: One more question, if I can, your Honor.

7 VOIR DIRE EXAMINATION

8 BY MR. SAGOR:

9 Q I have given you 3500 material marked 3500 through
10 3559; is that correct?

11 A Yes.

12 Q And those are FBI reports?

13 A Yes.

14 Q Now reflected in those reports, do those reports
15 reflect the ones contained in information that you provided
16 Mr. Fleisher, do those contain all the information that you
17 provided Mr. Fleisher?

18 A Yes, sir, they do.

19 Q Do you fail to see any subject matter within those
20 numbers that you wrote a report on that is not reflected in
21 that subject matter?

22 A No, sir.

23 MR. SAGOR: No further questions.

24 I call Mr. Fleisher.

25 MR. GALLUCCIO: I would like to ask a few questions.

* * *

1 jwlm 175

* * *

2 W I L L I A M L. F L E I S H E R, recalled

3 as a witness by the Government, having previously

4 been sworn, testified further as follows:

5 DIRECT EXAMINATION

6 BY MR. SAGOR:

7 Q Mr. Fleisher, how many handwritten reports did
8 Mr. Olsberg supply to you in the period late September through
9 January 1973, to your knowledge?

10 A Pertaining to this matter?

11 Q Pertaining to this matter.

12 A Four or five.

13 Q Did he supply you with any handwritten information
14 pertaining to other matters?

15 A Yes, he did.

16 Q In connection with this case, what did you do upon
17 the receipt of any handwritten papers?

18 A I took all this and reduced them to FB-302.

19 THE COURT: What is that?

20 THE WITNESS: Excuse me, your Honor, which is the
21 investigative report of the FBI.

22 Q Do those reports marked -- you have reviewed, have
23 you not, 3500 through 3559?

24 A Yes, sir, I have.

25 Q And do those numbers, those 59 reports plus the

1 jwlm 176

Fleisher-direct/cross

2 grand jury testimony of Olsberg accurately reflect all the
3 information he provided you?

4 A Yes, they do.

5 Q And do you see absent there any information at all
6 provided you by written memo which you failed to make up in
7 the 302?

8 A There is never anything he provided me that I didn't
9 make a 302 of.

10 Q Did you make a practice of not retaining handwritten
11 information that a witness gave you?

12 A I don't know.

13 Q You didn't have a practice one way or another?

14 A No, I didn't have a practice. What I did generally
15 was dictate and when I got the dictation back and verified it
16 was accurate, that I had enough copies, sometimes I would
17 throw it out and sometimes retained it. I had no procedure.

18 Q One way or the other.

19 A One way or the other.

20 MR. SAGOR: No further questions.

21 THE COURT: Go ahead.

22 CROSS-EXAMINATION

23 BY MR. GALLUCCIO:

24 Q Mr. Fleisher, Olsberg did in fact give you hand-
25 written reports?

jwlm 184

Olsberg-cross

Q Slaitin introduced Lamont to you?

A Yes, sir.

Q And just so that I have this in the sequence of events, the first person that you met was Mr. Gorab?

A Yes, sir.

Q And from here on was this Mr. Kessler, was he out of this?

A Yes, sir.

MR. SAGOR: Objection, what, there is no discussion here about the Sewer Authority. I object to the question.

MR. GALLUCCIO: Obviously the witness must have understood, because he answered it.

THE COURT: You may inquire on redirect.

Q In any event, you met Mr. Gorab first. And who was the next person you met through Mr. Gorab?

A Mr. Herbert Slaitin.

Q Mr. Herbert Slaitin. And can you place a time after this, when, not a specific day, but generally part of the month?

A It was in September of 1972, I believe, the early part of September 1972.

Q All right.

Would it be fair to say it was within the first week or so of your meeting Mr. Gorab when you met Mr. Slaitin?

* * *

1 jwlm 187

Olsberg-cross

2 September, you had to meet Zalkin after the second week of
3 September; correct?

4 A Well, possibly I might have met him a day later.

5 Q Okay, but the sequence is correct, is it not?

6 A Yes, sir.

7 Q Who introduced you to Mr. Rodney?

8 A Mrs. Jean Gorab called me on the 15th and -- of
9 October and told me to call up Mr. Gordon Rodney. I had no
10 knowledge of Mr. Gordon Rodney prior to that.

11 Q So that you never heard the name Gordon Rodney in
12 September of 1972.

13 A Not to the best of my knowledge.

14 Q And when you spoke to --

15 MR. GALLUCCIO: Withdraw that, please.

16 Q When Mr. Gorab put you in touch with Mr. Slaitin --
17 okay? How were you introduced to Mr. Slaitin?

18 A Gorab had called Mr. Slaitin and asked Mr. Slaitin
19 to call me. It was not a personal introduction.

20 Q A personal introduction.

21 A It was not a personal introduction.

22 Q Oh, I'm sorry. And did Mr. Slaitin call you?

23 A Yes.

24 Q And did you have occasion to meet him?

25 A Yes, I did.

1 jwlm 188

Olsberg-cross

2 Q When was it that you first met Mr. Slaitin?

3 A In the middle of September '72.

4 Q And Mr. Slaitin then put you in contact with
5 Mr. Lamont?

6 A Yes, sir.

7 Q And you met Lamont after Slaitin but before Zalkin;
8 is that correct?

9 A That's correct.

10 Q Mr. Lamont -- he's the money man so to speak,
11 according to your testimony, was he not?

12 MR. SAGOR: Objection, your Honor.

13 Q You know what I mean, don't you?

14 THE COURT: Sustained as to form.

15 Q Who was the person who gave you two checks for
16 \$2500?

17 A Mr. Lamont and Mr. Slaitin.

18 Q And when you say that, both of them gave you the
19 checks?

20 A Mr. Lamont gave -- on one occasion gave a check to
21 Mr. Slaitin, Mr. Slaitin gave it to me. I believe the second
22 time Mr. Lamont gave me the check.

23 Q Who was the maker of the check?

24 A Mr. Jack Lamont.

25 Q Of both checks?

* * *

1 jwlm 202

Olsberg-cross

2 A Yes.

3 Q The end of August or the beginning of September,
4 okay? And after that meeting Mr. Gorab introduced you to
5 one Herbert Slaitin?

6 A Yes, sir.

7 Q Slaitin, in turn, introduced you to Lamont?

8 A Yes, sir.

9 Q Who introduced you to Mr. Zalkin?

10 A Mr. Slaitin and Mr. Lamont.

11 Q Slaitin and Lamont introduced you to Zalkin?

12 A They were both present when I met Mr. Zalkin the
13 first time.

14 Q When was that?

15 A That was in the latter part of September.

16 Q All right.

17 So you had met Mr. Gorab on the 20th for the second
18 time; is that correct, face to face?

19 A I --

20 Q At your office.

21 A On or about the 21st. He called me, I believe, on
22 the 20th and I met him on the 21st.

23 Q In any event, that's the time you met him at your
24 office.

25 A Yes, sir.

* * *

1 jwlm 204

Olsberg-cross

2 A Mr. Zalkin.

3 Q Mr. Zalkin? Or did you refer to him as Shelly?

4 A I probably referred to him as Shelly in other
5 conversations because I was aware of his name, but I think
6 I probably addressed him as Mr. Zalkin when I first met him.7 Q If I refresh your recollection and tell you that
8 you addressed him whenever you spoke to him on September 27
9 as Shelly, would that refresh your recollection as to whether
10 you spoke to him as Zalkin or Shelly?

11 A That's very possible.

12 Q And you had not met him prior to September 27
13 according to your testimony; is that correct?

14 A That's right.

15 Q In any event, this conversation that you had with
16 Zalkin and Lamont and Slaitin, who arranged that particular
17 meeting of September 27?

18 A Mr. Lamont and Mr. Slaitin.

19 Q Lamont and Slaitin. Were they business partners,
20 or anything, do you know?21 A I would have no idea what their exact relationship
22 was except they were doing business with one another and they
23 probably were partners in other things.

24 Q All right.

25 In any event, your relationship with them wasn't

* * *

1 jwlm 213

Olsberg-cross

2 A He indicated he could have it effectuated.

3 Q And he indicated, did he not -- there was discussion
4 about five million, was there not?

5 A Yes.

6 Q On that September 22 meeting.

7 By the way, was any effectuated as a result of
8 this conversation in September 1972?

9 A No, sir.

10 Q Was any effectuated in October of 19 --

11 A Only in regards to the five million.

12 Q In -- only in regard to what?

13 A To the five million.

14 Q So you say that at this conversation when five
15 million dollars was discussed -- he's the one that initiated
16 the discussion about the five million? It came from his
17 mouth or yours?

18 A I believe it came from mine.

19 Q You told him if he could get five million, you
20 could get some kind of arrangement?

21 A He --

22 MR. SAGOR: Objection.

23 THE COURT: Sustained as to form.

24 MR. SAGOR: May the witness be instructed if there
25 is an objection, he is not to answer.

1 jwlm 218

2 amount.

3 Q Were you paid personally, or was, for example, your
4 rent paid for you?

5 A No, I was paid personally.

6 Q You were given the money personally?

7 A Yes, sir.

8 Q And could you tell us approximately how much you
9 received from the FBI? I don't want you to be exact; just
10 approximate.

11 A Some months I received \$1700. Other months it was
12 less. There were expenses in renting automobiles that I used
13 to go to New Jersey and things like that.

14 Q Would it be fair to say it was in the neighborhood
15 of \$7,000?

16 A The FBI has an exact record of what they paid me,
17 and I think they are in a position to give you that figure.
18 There is nothing to hide.

19 Q I want to know if you know how much was given to
20 you.

21 A No, I don't.

22 Q And this was by check, was it not?

23 A No, sir.

24 Q It was in cash?

25 A It was in cash.

* * *

1 jwlm 225

Olsberg-cross

2 the FBI for four months of September, October, November and
3 December?

4 A The statement I received from the FBI in total, but
5 I don't have an idea as to the month.

6 Q What's the total?

7 A The total is slightly less than \$13,000.

8 Q And that's for how many months?

9 A That would be from the time of my cooperation until
10 approximately April of 1973 at which time I became a relocated
11 Government witness.

12 Q And any expenses that were paid after April of '73
13 are not included in this 13,000?

14 A No, sir.

15 Q All your moving expenses, et cetera, were all paid
16 in addition to the 13,000? Correct?

17 A Yes, sir, they were paid by the Government.

18 Q It's in addition to the 13,000?

19 A Yes, sir.

20 Q And the 13,000 is for what period of time?

21 A September of 1972 until April of 1973.

22 Q Approximately seven months. Okay?

23 On October 1st did you speak to Mrs. Gorab on
24 October 1st at the wedding?

25 A Yes, sir.

* * *

1 jwlm 239

Olsberg-cross

2 Q And that was obviously prior to his leaving on his
3 honeymoon.

4 A That's correct.

5 Q At one point during the conversation you said to
6 him, did you not, "All right, now, huh, look it, provided I
7 get it, huh, Jim, like I say and all that, huh, I'll do the
8 five mill, you'll transfer that"? Remember that?

9 A Yes.

10 Q And you remember him saying "Right, now" --
11 apparently answering "Right" and then "Now" going on to a
12 different subject.

13 A Yes, sir.

14 Q By the way, did you ever learn how the -- you learned
15 that money had been paid in exchange for September 22nd, did
16 you not, for the September 22nd transfer to Sterling?

17 A Yes, sir.

18 Q You learned that through Gorab?

19 A I learned that through Mr. Slaitin and Lamont.

20 Q Slaitin and Lamont.

21 A I received a copy, photostatic copy of a check.

22 Q And Lamont -- was that Lamont's check for \$1250?

23 A Yes, sir.

24 Q Now, do you know how much the bank paid for that
first million dollars? That was September 22nd. If you know.

* * *

* * *

jwlm 339

Passaretti-direct/cross

A "Up front" is a term which refers to a fee paid to a person or persons for their services in a certain transaction.

Q And in what connection does the phrase "up front" have to do with the rate of interest, if any?

A None whatsoever.

Q And does there also occur the phrase "out front"?

A Yes, sir.

Q And can you tell the members of the jury what the phrase "out front" means?

A It would be using the term as "up front" or front money, good faith money.

MR. GALLUCCIO: I didn't hear that.

THE COURT: Another term for good faith money.

CROSS-EXAMINATION

BY MR. GALLUCCIO:

Q You mean like somebody gives somebody money as good faith, is that what you mean?

MR. GALLUCCIO: Withdraw that.

Q When you talk about the definition of a particular term, would you agree with me, Mr. Passaretti, that the definition of a given word is what the individual who is receiving that word understands it to be? Would you agree to that?

* * *

1 jwlm 342

2 and give you about 15 minutes to get it.

3 MR. SAGOR: Your Honor, I don't want to
4 unnecessarily burden the Court, but what I wanted to see
5 this morning was Defendant's Exhibit F. Mr. Fleisher found
6 it last night. We turned it over to Mr. Galluccio this
7 morning.

8 MR. GALLUCCIO: I will call Mr. Fleisher and then
9 take a recess if you want.

10 THE COURT: All right.

11 (In open court.)

12 MR. GALLUCCIO: I call Mr. Fleisher.

13
14 W I L L I A M L. F L E I S H E R, recalled as
15 a witness by the defendant, having previously been
16 sworn, testified further as follows:

17 MR. GALLUCCIO: Mr. Fleisher previously sworn,
18 the record will indicate.

19 DIRECT EXAMINATION

20 BY MR. GALLUCCIO:

21 Q I show you Defendant's Exhibit F. Did you turn that
22 over to me this morning?

23 A I believe Mr. Sagor did.

24 Q Was that about five minutes of ten this morning?

25 A I believe that was the approximate time.

1 jwlm 343

Fleisher-direct

2 Q And this is a copy of a handwritten statement that
3 was given to you by Mr. Olsberg back in February 1973; is
4 that correct?

5 A Yes, sir, it is.

6 Q Now, did you at any time receive other handwritten
7 reports from Mr. Olsberg?

8 A Yes, I did.

9 Q And is this the only one that you found in your
10 file?

11 A Yes, sir, it is.

12 Q When he was submitting these handwritten reports
13 to you, I assume that was confidential information that was
14 contained therein?

15 A Yes, sir.

16 Q And you would have put it in a confidential file,
17 would you not?

18 A Not necessarily.

19 Q Well, you would make the -- you would accept the
20 report from him, would you not?

21 A Yes, sir, I would.

22 Q And -- well, would you put it in a confidential
23 file or would you throw it in a confidential waste basket,
24 what would you do?

25 A My area where I work, sir, is a secure area and I

* * *

THE COURT: We'll take our mid-afternoon recess now.
I want to talk to Juror Number 3 about the time factor.

(Mid-afternoon recess.)

(Jury present.)

MR. GALLUCCIO: May I call Mr. Sellarole in
surrebuttal.

ROBERT C. SELLAROLE, recalled,
having previously been sworn, testified further as
follows:

THE CLERK: You are still under oath, Mr. Sellarole.

THE WITNESS: Yes, I do.

DIRECT EXAMINATION

BY MR. GALLUCCIO:

Q I show you, Mr. Sellarole, what is marked
Government's Exhibit 26. Is that an accurate statement
reflecting the balance and deposits in your account at the
Interchange State Bank?

A It is, sir.

Q For what period is that?

A September 12 to December 11.

Q September 12 of what year?

A Of 1972.

Q Until --

1 jwlm 348

Sellarole-direct

2 A December 11, 1972.

3 Q You did in fact make a deposit on September 29th,
4 1972 of \$2,000, did you not?

5 A I did.

6 Q And was that deposit in cash or by check?

7 A It was by cash.

8 Q Would you tell us where you got the \$2,000 that you
9 put into the bank on September 29th, 1972?

10 A The \$2,000 represents a --

11 Q Are you reading from something?

12 A I have names of the company that issued the check.

13 Q Let me mark that for identification then. Do you
14 need it to refresh your recollection?

15 A No, not necessarily.

16 Q Okay.

17 A Put it away?

18 Q If you need it to refresh your recollection, you
19 may use it. If not, you don't.

20 Do you have an independent recollection of where
21 the \$2,000 that you deposited in cash on September 29th came
22 from?

23 A It was part of a 5500-dollar payment made to
24 Sellarole Construction Company by Michael Veltri Builders,
25 V-e-l-t-r-i.

jwlm 349

Sellarole-direct

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Q How much was the check for?

A \$5500.

Q How did you get the \$2,000 to put in the bank --
MR. GALLUCCIO: Withdraw that.

Q The \$5500, when was that check made out to you or
Sellarole Construction?

A September 20.

Q 20th?

A 1972.

Q When was that check cashed, do you know?

A Probably the 28th, I believe.

Q And Veltri -- did you have a chance to check with
Veltri Construction or Veltri Builders?

A No, I checked with my office records and I
attempted to call Mr. Veltri at two numbers that I have
here, his office and his home.

Q The canceled check -- there will be a canceled
check for September 20 made out to Sellarole Construction
for 5500?

A Yes, I believe I can pick that up this evening.

Q And when you cashed the check, what did you do with
the money?

A I took \$2,000 of it and put it in my personal
account.

* * *

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UNITED STATES OF AMERICA

VS.

1114

ROBERT C SELLAROLE

New York, N. Y.

May 16, 1974

10:00 a.m.

(Trial resumed, jury present)

CHARGE OF THE COURT

Hon. E. Weinfeld, D. J.

THE COURT: Members of the jury, we are now at the stage of the trial where you will soon undertake your final function as jurors, and here you perform one of the most sacred obligations of citizenship - that is, acting as ministers of justice.

You are to discharge this final duty in an attitude of complete fairness and impartiality. And as I instructed you at the start of the trial, without bias or prejudice with respect to either government or the defendant as a party to this litigation.

The case is an important one. It is important to the government for the enforcement of the criminal law is a matter of prime concern to the community.

Equally, it is important to the defendant, who is charged with the commission of a serious crime.

Let me add the fact that the government is a

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party entitles it to no greater consideration than that accorded to any other party to a litigation. But by the same token it is entitled to no less consideration. All parties-individuals, corporation and government alike - stand as equals at the bar of justice.

Your final role is to decide the fact issues in the case. You are the sole and exclusive judges of the fact. You pass upon the weight of the evidence, you determine the credibiility of the witnesses, you resolve such differences as there may be in testimony and you draw whatever reasonable inferences may be warranted from the facts as you determine them.

My function at this point is to instruct you as to the law. It is your duty to accept these instructions of law and to apply them to the facts as you may determine them.

With respect to any fact matter -- and I have stated that a number of times -- it is your recollection and yours alone that governs. Anything that counsel either for the government or the defense may have said with respect to fact matters in evidence, whether during the trial, in a question, in argument or in summations is not to be taken in substitution for your own independent recollection of the evidence.

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So, too, anything that the Court may have said during the progress of the trial, or may say during the course of these instructions with respect to any fact matters in evidence again is not to be taken in place of your recollection. That governs at all times.

A preliminary word. During the progress of the trial on a number of occasions the Court admonished counsel for one side or another. Frequently during the stress of trial and the heat of advocacy, lawyers will say and do things which in calm moments they probably would not say and do. These incidents are to play no part in your fact determination. The rights of parties are governed by the evidence and the law and not by the personalities of the lawyers, or that of the judge.

Before we consider the precise charges against Robert C. Sellarole, the defendant here on trial, some preliminary instructions are in order. The indictment, as originally returned by the Grand Jury, contains seven counts, or seven charges.

As I told you at the close of the government's case, I have withdrawn from your consideration the sixth count, so that there remains in all six counts, each of which charges a separate crime.

The indictment names six defendants - Robert C.

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2 Sellarole, Gordon Rodney, James W. Gorab, Herbert Slatin,
3 Johnson O. Lamont and Sheldon J. Zalkin.

4 Of these, Robert Sellarole is the only defendant
5 on trial before you. He is named in all six counts. The
6 other defendants were named only in Counts 1 and 2.

7 Count 1 charges that from approximately June 1,
8 1972 up to the date of the indictment, or the date the
9 indictment was filed, December 12, 1973, the defendant
10 Sellarole, together with the other defendants, conspired
11 to violate a law of the United States, Section 1952, of
12 Title 18, United States Code.

13 We will discuss the details of this law later
14 on.

15 Basically this count charges that the defendants
16 conspired, that is, agreed among one another, to commit
17 bribery involving Robert Sellarole in connection with
18 which interstate facilities would be used.

19 Count 2 charges Sellarole and the other defend-
20 ants with a substantive, or actual violation of Section
21 1952, that is, interstate facilities were actually used
22 to promote or facilitate the bribery of Sellarole in vio-
23 lation of the laws of New Jersey.

24 Counts 3, 4, 5 and 7, charge Sellarole with four
25 separate instances of perjury or false swearing before a

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2 Grand Jury in this courthouse in March 1973.)

3 As you know, from their testimony before you,
4 James Gorab and Gordon Rodney pleaded guilty to Count 1,
5 the conspiracy count.

6 The remaining charge against them under Count 2,
7 and charges against the defendants Slaitin, Lamont and
8 Zalkin have been severed, that is, separated from the
9 charges against the defendant Sellarole so that he remains
10 the sole defendant that you have before you on Counts 1
11 and 2, wherein the others were named, and on the perjury
12 counts wherein he is the sole defendant.

13 The fact that the defendants Gorab and Rodney
14 pled guilty may in no respect be considered by you against
15 the defendant on trial, nor may any adverse inference be
16 drawn against him by reason thereof. It may not enter
17 into your deliberations except as it may be considered by
18 you on the issue of their credibility as to which I shall
19 hereafter instruct you.

20 So, too, the fact that the charges against
21 Herbert Slaitin, Johnson O. Lamont and Sheldon J. Zalkin,
22 the other defendants named in two counts of the indictment,
23 have been severed is not to enter into your deliberations.

24 This is a matter of court procedure that does
25 not concern you, and no inference may be drawn against

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2 either the government or the defendant by reason thereof.

3 Guilt is personal. The guilt or innocence of
4 Sellarole of the charges against him must be determined
5 solely upon the evidence presented against him, or the lack
6 of evidence.

7 The case against him stands or falls on the proof
8 against him and not against someone else.

9 There are certain principles of law that apply
10 in every criminal case, to which I made reference and
11 emphasized at the time of your selection as jurors, and
12 some of which I had occasion to repeat, and I repeat them
13 now.

14 The indictment upon which the defendant is
15 brought to trial is simply an accusation or charge. It
16 is no evidence or proof of the defendant's guilt. The
17 fact that an indictment was returned against him must in
18 no respect enter into your deliberations. He has pled
19 not guilty.

20 Thus, the government has the burden of proving
21 the charges against him beyond a reasonable doubt. It is
22 a burden that never shifts and remains upon the govern-
23 ment throughout the entire trial.

24 The defendant does not have to prove his inno-
25 cence. On the contrary, he is presumed to be innocent of

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2 the charges against him. This presumption of innocence was
3 in his favor at the start of the trial, continued in his
4 favor throughout the trial, is in his favor even as I in-
5 struct you now and continues in his favor during the course
6 of your deliberations in the jury room. It is removed
7 only, if and when, the government has sustained its burden
8 of proving the charges against him beyond a reasonable
9 doubt.

10 The question that naturally comes up then is,
11 "What is a reasonable doubt?"

12 The words almost define themselves - that there
13 is a doubt founded in reason, and arising out of the
14 evidence in the case, or the lack of evidence. It means
15 a doubt which a reasonable person has after carefully
16 weighing all the evidence.

17 "Reasonable doubt" is a doubt which appeals to
18 your reason, your common sense, your experience and your
19 judgment. It is not caprice, whim or speculation. It is
20 not an excuse to avoid the performance of an unpleasant
21 duty. It is not sympathy for the defendant.

22 If, after a fair and impartial consideration of
23 all the evidence, you can candidly and honestly say that
24 you are not satisfied of the guilt of the defendant, that
25 you do not have an abiding conviction of the defendant's

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2 guilt which amounts to a moral certainty-in sum, if you
3 have such a doubt as would cause you to hesitate before
4 acting in matters of importance to yourself, then you have
5 a reasonable doubt, and in that circumstance it would be
6 your duty to acquit.

7 On the other hand, if after such a fair and
8 impartial consideration of all the evidence you can candidly
9 and honestly say you do have an abiding conviction of the
10 defendant's guilt, which amounts to a moral certainty,--
11 such a conviction as you would be willing to act upon in
12 important weighty matters in the personal affairs in your
13 own life, then you have no reasonable doubt, and in that
14 circumstance it would be your duty to convict.

15 One final word on this subject. "Beyond a
16 reasonable doubt" does not mean absolute certainty or
17 beyond all possible doubt. If that were the rule, few
18 men, however guilty they might be, would be convicted.

19 It is practically impossible for a person to
20 be absolutely and completely convinced of any controverted
21 fact, which by its nature does not lend itself to mathema-
22 tical certainty.

23 In consequence, the law in a criminal case is
24 that it is sufficient if the guilt of a defendant is
25 established beyond a reasonable doubt, not beyond all possible

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2 doubt.

3 Before we consider the precise charges against
4 the defendant, there come into play two separate federal
5 laws, and also a state law.

6 As you already know in very broad terms, the
7 indictment charges a conspiracy to violate a federal sta-
8 tute which makes it a crime to use interstate facilities,
9 including a telephone, to carry on or further certain
10 state crimes.

11 One of these state crimes is bribery of a public
12 official.

13 The federal statute, which the indictment char-
14 ges the defendant and others conspired to violate, reads
15 in pertinent part:

16 "(a) Whoever travels in interstate commerce,
17 or uses any facilities in interstate commerce with
18 intent to -- promote ... establish, carry on, or facilitate
19 the promotion ... establishment, or carrying on, of any
20 unlawful activity, and thereafter performs or attempts to
21 perform any of these acts ... shall be" guilty of a crimi-
22 nal offense.

23 Under this statute "...unlawful activity" means
24 "... bribery ... in violation of the laws of the state in
25 which committed..."

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We now turn to the law of the State of New Jersey on bribery.

The gist of the crime of bribery is the wrong done to the people by the corruption of those in public service.

The New Jersey statute in pertinent part provides:

"Any person who directly or indirectly gives or receives, offers to give or receive, or promises to give or receive any money, services or thing of value as a bribe, present or reward to obtain, secure, or procure any work, service ... approval ... or any other act or thing connected with or pertaining to ... any public authority, is guilty of a (crime)."

The statute is aimed at both the bribe giver and bribe taker.

Thus the crime of bribe receiving is committed by a public officer who receives or agrees to receive a bribe of any money upon an agreement or understanding that his official action or judgment shall be influenced.

So, too, the crime of bribery is also committed by anyone who gives or offers or causes to be given or offered any money or anything of value or any promise therefor to a public officer with intent to influence that public officer with respect to any official act.

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2 I instruct you that a Commissioner of the Bergen
3 County Sewer Authority is a public official under the
4 New Jersey statute and that the Sewer Authority is a public
5 authority.

6 It is not necessary that the act requested be
7 one which the official has authority to do.

8 It is sufficient if he has an official power,
9 ability or apparent ability to bring about or cause or
10 contribute to the desired end.

11 Furthermore, to establish the crime of bribery,
12 it is not necessary that the public officer would have
13 acted differently if he had not received the money or thing
14 of value.

15 As I already instructed you at least once during
16 the trial - perhaps twice - for example, even assuming
17 that on September 22nd, 1972, the Sterling Bank paid the
18 highest rate of interest on its certificates of deposit to the
19 Sewer Authority upon the transfer of funds, and even if
20 the bank would have received the funds without a promise
21 and payment to Sellarole, if you do find that that occurred,
22 this does not foreclose bribery of Sellarole if the ele-
23 ments of the offense are established.

24 So, too, it makes no difference whether the
25 official action in connection with which a bribe was paid

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2 actually takes place.

3 In other words, it is no defense to bribery that
4 the bribe payer never received what he paid for.

5 I stress, however, that the defendant here is
6 not charged with the crime of bribery under the state law.
7 Rather, he is charged, together with others, with conspi-
8 racy to violate the federal substantive law against the
9 use of interstate facilities to further certain state
10 crimes and also with an actual violation of the substan-
11 tive federal laws, Section 1952, Title 18.

12 A word about Count 1 which charges a conspiracy
13 to violate Section 1952 of Title 18, and Count 2, which
14 charges an actual and substantive violation of Section
15 1952, They are two separate and distinct crimes.

16 A conspiracy is an entirely separate and dis-
17 tinct offense, different from a violation of the substan-
18 tive law. A conspiracy -- sometimes referred to as a
19 partnership in crime -- presents a greater potential
20 threat to the public than the lone or single wrongdoer.

21 Concerted acts for criminal purpose often, if
22 not usually, makes possible the attainment of ends more
23 complex than those which an individual, acting alone,
24 could accomplish.

25 Group association increases the likelihood that

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the criminal object will be successfully realized and renders detection more difficult than in the instance of a sole wrongdoer.

It was because of these, and other reasons, that Congress made a conspiracy, or concerted action, to violate a federal law, a crime, entirely separate and distinct from the substantive law, the violation of which is the object of the conspiracy.

Thus, Congress has provided in Section 371 of Title 18 - now, that is another provision of the federal criminal law -- insofar as pertinent: "If two or more persons conspire ... to commit any offense against the United States ... and one or more of such persons does any act to effect the object of the conspiracy, each shall be" guilty of a criminal offense.

This is the law the defendant is charged with violating under Count 1, the conspiracy count.

Against this background of the applicable statutes, we turn to a consideration of the specific counts of the indictment.

Since the essential elements which the government must prove in order to sustain the respective charges are different in the instance of each crime, we shall consider each separately.

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Thus, as to the first count of the indictment, first there is an introduction with a description of the parties and others which reads as follows:

"At all times relevant herein, the Bergen County Sewer Authority was a public authority of the State of New Jersey with offices at Mehrhof Road, Little Ferry, New Jersey.

"2. At all times relevant herein, Sterling Bank and Trust Company of New York, the Sterling National Bank, was a national banking association with a branch office at 540 Madison Avenue, New York, New York.

"3. The defendant Robert C. Sellarole, at all relevant times, was a Commissioner of the Sewer Authority.

"4. The defendant, Gordon Rodney, at all relevant times was self employed at 73 Buschmann Avenue, Haledon, New Jersey.

"5. The defendant, James W. Gorab, at all relevant times was self employed at 274 Monroe Avenue, Wyckoff, New Jersey.

"6. The defendant, Herbert Slatin, at all relevant times to this indictment was employed as a mortgage broker in New York City.

"7. The defendant, Johnson O. Lamont, at all relevant times was a movie producer who resided at 24 Fifth

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2 Avenue, New York, New York.

3 "8. The defendant, Sheldon J. Zalkin, at all
4 relevent times was an Assistant Vice President of Sterling
5 National Bank.

6 "9. During 1972 and early 1973, the Sewer
7 Authority had over forty (40) million dollars in deposits
8 in various banks and in United States obligations, result-
9 ing from the issuance of Sewer System Bonds. The Sewer
10 Authority, through the direction and discretion of one or
11 more of its Commissioners, would designate which banks would
12 hold these deposits. These deposits, which were offered in
13 evidence by certificates of deposit would be kept in various
14 banks until such time as they would be expended for Sewer
15 Authority projects, and from time to time deposits would
16 be rolled over or transferred from one bank to another."

17 Then there is a heading "Conspiracy:

18 "10. From on or about the first day of June,
19 1972 up to and including the date of the filing of this
20 indictment, in the Southern District of New York and else-
21 where, Robert C. Sellarole, Gordon Rodney, James W.
22 Gorah, Herbert Slatin, Johnson O. Lamont and Sheldon J.
23 Zalkin, the defendants, and other persons to the Grand
24 Jury known and unknown, unlawfully, willfully and knowingly
25 did combine, conspire, confederate and agree together and

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2 with each other to violate Section 1952 of Title 18,
3 United States Code.

4 "11. It was part of said conspiracy that the
5 defendants would and did use and cause to be used facili-
6 ties in interstate and foreign commerce, including tele-
7 phones and mails, and would travel and cause others to
8 travel in interstate commerce, with intent to promote,
9 manage, establish, carry on and facilitate the promotion,
10 management, establishment and carrying on of unlawful
11 activity, to wit, bribery in violation of the laws of the
12 State of New Jersey; namely, New Jersey Statutes 2A 93-6,
13 and thereafter said defendants would and did distribute
14 the proceeds of said unlawful activity and would and did
15 perform and attempt to perform acts to promote, establish,
16 carry on and facilitate the promotion, establishment
17 and carrying on of said unlawful bribery.

18 "12. Among the means by which the defendants
19 and co-conspirators would and did carry out the aforesaid
20 conspiracy were the following:

21 "(a) The defendant Robert C. Sellarole, being
22 a Commissioner of the Sewer Authority, would and did agree
23 with the defendant Gordon Rodney to arrange for the trans-
24 fer from one bank to another of several millions of dollars
25 of Sewer Authority deposits in return for the payment of

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sums of money and other things of value.

"(b) The defendants Robert C. Sellarole and Gordon Rodney would and did specifically agree to receive money and other things of value from the defendant James Gorab which the defendant James Gorab would and did receive from the defendants Johnson Lamont and Herbert **Slatin** , which payments were intended by them to induce the transfer of Sewer Authority deposits.

"(c) The defendant Malkin would and did promise to arrange loans from the Sterling National Bank to defendants Lamont and Slatin in return for the receipt by the Sterling National Bank of deposits from the Sewer Authority.

"(d) In or about September 1972, defendant Robert C. Sellarole would and did help to arrange for the transfer of \$1,000,000 of Sewer Authority money to be deposited in the Sterling National Bank for one year, and as a result thereof \$1,000,000 was transferred to the Sterling National Bank, and the Sewer Authority was given a certificate of deposit to be held by them for a year.

"(e) In or about September and October 1972, defendants Lamont and **Slatin** would and did pay Gorab a total of \$3,750, which payments were in connection with the past and future transfer of Sewer Authority deposits

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2 to the Sterling National Bank, which defendant Gorab in
3 turn transferred in substantial part to Sellarole and
4 Rodney in the form of cash."

5 That is the charge.

6 What must the government establish to prove a
7 conspiracy? It must, if it is to succeed, prove beyond a
8 reasonable doubt the following elements:

9 (1) The existence of the conspiracy charged in
10 the indictment -- that sometime between June 1, 1972 and
11 December 12, 1973, in the Southern District of New York
12 and elsewhere, a conspiracy to violate a federal statute
13 existed between Robert Sellarole and one or more of the
14 defendants named in the indictment, such as Rodney and
15 Gorab, who are not on trial;

16 (2) That the defendant Robert Sellarole knowingly
17 associated himself with the conspiracy; and

18 (3) That one of the conspirators knowingly
19 committed at least one of the overt acts set forth in the
20 indictment -- which I shall presently read: At or about
21 the time and place set forth.

22 In addition to the foregoing essential elements,
23 the government must also establish beyond a reasonable
24 doubt the following:

25 (1) That the conspirators were engaged in the

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2 commission of the crime of bribery in violation of the laws
3 of the State of New Jersey;

4 (2) That, at any time during the course of the
5 conspiracy, the conspirators intended to use, or reason-
6 ably anticipated use of, interstate facilities - in this
7 instance, telephone calls or travel between the states of
8 New York and New Jersey -- with intent to promote or
9 manage or establish or carry on, or to facilitate the
10 promotion, management, establishment, or carrying on of
11 the crime of bribery; and

12 (3) That the conspiracy was furthered, at least
13 in part, by the use of an **interstate** facility, the
14 telephone, between New York and New Jersey, by one or
15 more of the conspirators, or by traveling from New York
16 to New Jersey with intent to promote, or to carry on, or
17 to facilitate the carrying on of the crime of bribery of
18 a public official, Robert Sellarole, in violation of the
19 laws of New Jersey.

20 It is such use of the interstate facility,
21 whether telephone or by traveling across state lines,
22 which gives the Federal Court jurisdiction, and unless
23 the government establishes beyond a reasonable doubt that
24 such interstate telephone calls, or the carrying of
25 the checks to New Jersey from New York were made for that

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2 purpose, then you must acquit.

3 For a telephone to be a facility in interstate
4 commerce, the telephone conversation must be between per-
5 sons then in different states.

6 Telephone conversations during which a trans-
7 fer of funds which are the subject of a proposed bribery
8 payment are discussed, or the payment of a bribe or part
9 thereof previously agreed upon, or any telephone conver-
10 sation related to and calculated to expedite any such
11 payment or its distribution, may constitute facilitating,
12 promoting or carrying on the unlawful activity of bribery.

13 So, too, if a person travels from one state to
14 another with a check, the proceeds of which are to be
15 used to make a bribe payment, it may be considered as
16 facilitating or promoting the unlawful activity of bri-
17 bery.

18 Let us consider what is a conspiracy. The idea
19 of a conspiracy is very simple. Conspiracy is a combina-
20 tion, agreement or understanding of two or more persons
21 by concerted action designed to accomplish a criminal or
22 unlawful purpose -- in this instance, the federal law
23 which bans interstate telephone calls or travel to facili-
24 tate or further the crime of bribery.

25 The gist of the crime is the unlawful combination

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2 or agreement to violate the law.

3 The success or failure of a conspiracy is
4 immaterial to the question of the guilt or innocence of a
5 conspirator.

6 Here the government claims it was successful
7 since it charges that bribes were in fact paid.

8 A conspiracy has sometimes been called a partner-
9 ship in criminal purposes, in which each member becomes
10 the agent of every other member.

11 To establish a conspiracy the government is not
12 required to show that two or more persons sat around the
13 table and entered into a solemn pact, orally or in writing,
14 stating that they have formed a conspiracy to violate the
15 law, or the details or the means by which its object was
16 to be achieved.

17 Common sense will tell you that when men in
18 fact undertake to enter into a criminal conspiracy, much
19 is left to the unexpressed understanding.

20 What the evidence must show in order to establish
21 that a conspiracy existed is that members in some way or
22 manner, through any contrivance, impliedly or tacitly,
23 came to a common understanding to violate the law or to
24 accomplish an unlawful plan.

25 In determining whether there has been an unlawful

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2 agreement, you may judge acts and conduct of the alleged
3 co-conspirators which are done to carry out an apparent
4 criminal purpose.

5 The adage "actions speak louder than words" is
6 applicable here.

7 Usually the only evidence available is that of
8 disconnected acts and conduct on the part of the alleged
9 individual conspirators -- which acts and conduct, however,
10 when taken together in connection with each other, and,
11 considered as a whole, permit an inference that a conspi-
12 racy existed as conclusively as by direct proof.

13 You must determine whether or not the proof
14 establishes the existence of the conspiracy as charged in
15 the indictment.

16 In deciding this first element, you should con-
17 sider all evidence which has been admitted with respect,
18 to the conduct, acts and declarations of each alleged co-
19 conspirator named in the indictment, and such inferences
20 as may be reasonably drawn therefrom.

21 It is sufficient to establish the existence of
22 the conspiracy if, from the proof of all the relevant
23 facts and circumstances, you find beyond a reasonable doubt
24 that the minds of at least two alleged co-conspirators
25 met in an understanding way to accomplish by the means

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alleged one or more of the objects of the conspiracy charged in the indictment.

If you do conclude that such a conspiracy existed, you must next determine the second element-- whether Sellarole was a member of the conspiracy.

His participation in the conspiracy, if you find one did exist, must be established by the independent evidence of his own acts, statements and conduct, as well as those of the other alleged co-conspirators, and the reasonable inferences to be drawn therefrom.

To find him guilty of the conspiracy, you must find beyond a reasonable doubt that, aware of the purposes and objects, that is, its purposes and objects, he intentionally associated himself with the conspiracy and participated therein, intending to violate the law -- that is, that he knowingly did an act which the law forbids -- in short, that there was an informed participation by him in an agreement or understanding, which intended the use of interstate facilities and which it was foreseeable they would be used, to further the illegal activity.

If you do so find, then however limited his role in furthering the objectives of the conspiracy, he is responsible for all that was done before or may be done during its continuance.

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Simply stated, using the partnership analogy, by becoming a participant in a conspiracy, one assumes all the liabilities of the partnership, including those which were in existence prior to his membership.

One you are satisfied beyond a reasonable doubt that a conspiracy existed and that Sellarole was a member, then the acts and declarations of any other person found to be a member, made during the pendency of the conspiracy and in furtherance of its objectives, are to be considered the acts and declarations of all other members, -- then if you further find that Rodney and Gorab were members -- then if you further find that Rodney and Gorab made interstate calls to others to obtain the bribery money, or to facilitate its payment, or that Gorab called Welsh to pick up the checks in New York, and bring them to New Jersey the proceeds of which were to be used for the payment of bribes as part of the conspiracy, then the acts of Rodney and Gorab in furtherance of the conspiracy would be binding on Sellarole, if you further find that he, too, was a member of the conspiracy, and such acts would be binding even though he was not present when they were committed.

Summing it up in a simple way -- if in fact

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2 evidence. Perhaps an example will give you a clearer view
3 of what is meant by it.

4 Assume as we entered the courthouse today that
5 it was a clear, bright, shining day, as it was when you
6 did enter it, and you entered the jury box here - I see
7 we don't have venetian blinds - but assume we had venetian
8 blinds here, and over the venetian blinds there were drapes
9 -- you couldn't look out and see what the weather condi-
10 tions were as a matter of fact -- after sitting here a
11 period of time some person came in carrying an umbrella
12 dripping wet, followed soon thereafter by another person
13 wearing a raincoat which appeared to be dripping wet --
14 and assuming you hear the pitter patter on the window
15 pane -- you cannot look out if I ask you what the weather
16 condition is -- you cannot give me a direct answer -- but,
17 bearing in mind when you entered early in the morning it
18 was a dry clear day, and taking this instance of a man
19 coming in having an umbrella that is dripping wet, another
20 one with a raincoat that is dripping wet, and the pitter
21 patter against the window, even though you couldn't see
22 it, you can draw the inference that it is raining outside.
23 That is all circumstantial evidence amounts to.

24 In this case the government relies both on direct
25 and circumstantial evidence.

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In addition to circumstantial evidence, it contends that through the testimony of Gorab, Rodney, Olsberg and the recordings, it has offered direct proof of a conspiracy.

If the reasonable inferences to be drawn from any evidence leads to two conclusions, one favoring guilt and the other favoring innocence, then it is your duty to accept that which favors innocence.

The reason for this is obvious, since if each inference is reasonable, there would be a reasonable doubt as a matter of law with respect to that evidence.

Whether a defendant or the defendant knowingly and intentionally participated in the claimed conspiracy presents issues of fact. Clearly these concern what is in one's mind and the purpose which motivates him in his course of conduct.

Medical science has not yet devised an instrument to record criminal or willful intent. It is usually a mental process in that direct proof of it is not available.

Intent and motive are determined from what a man says or does, his words, his actions and his conduct and such inferences which may reasonably be drawn or arrived therefrom.

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2 If you find circumstances of conspiracy, intrigue
3 and deviousness, these may be considered by you as circum-
4 stantial evidence of criminal intent or consciousness of
5 guilt.

6 So, too, if you find any attempt to conceal or
7 fabricate evidence, or that false exculpatory statements
8 were made, these may be considered by you as showing con-
9 sciousness of guilt.

10 A word of caution. Mere association of the
11 defendant with an alleged conspirator or conspirators does
12 not establish his participation in a conspiracy, if you
13 find one did exist.

14 So, too, mere knowledge by the defendant of a
15 conspiracy or any illegal act on the part of any of the
16 alleged co-conspirators is not sufficient to establish
17 his membership in the conspiracy.

18 Before the inference may be drawn that the defend-
19 ant was a member of the conspiracy, you must, as I have
20 already instructed you, be satisfied from the evidence
21 presented by the government that he knowingly and inten-
22 tionally associated himself with the intent to violate
23 the law.

24 If you find the government has established the
25 second element as to defendant's participation, we reach

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2 the third element.

3 I have already mentioned that an essential ele-
4 ment of the crime of conspiracy is that an overt act
5 intended to effect the object of the conspiracy be
6 committed by at least one of the co-conspirators after
7 the unlawful agreement has been made.

8 An overt act is any step, action or conduct
9 which is taken to achieve, accomplish or further the
10 objective of the conspiracy.

11 The overt act need be neither a criminal act,
12 nor the very crime which is the object of the conspiracy.

13 The overt acts listed in the indictment are:
14 "In furtherance of the said conspiracy and to effect the
15 objects thereof, the defendants and co-conspirators com-
16 mitted the following overt acts, among others, in the
17 Southern District of New York and elsewhere:

18 "1. In or about June 1972, the defendant Gordon
19 Rodney met with the defendant James Gorab.

20 "2. On or about September 22, 1973, the defend-
21 ant Robert Sellarole had a conversation with Robert Guido,
22 the Treasurer of the Sewer Authority.

23 "3. On or about September 28, 1972 defendants
24 Johnson O. Lamont and Herbert Slaitin had a conversation
25 with defendant James W. Gorab. Gorab and Slaitin arranged

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2 to make a payment to Gorab of \$1,250.

3 "4. On or about the evening of September 28,
4 1972 the defendants Sellarole, Rodney and Gorab had a
5 conversation.

6 "6. On or about October 3, 1972 the defendant
7 Johnson O. Lamont drew a check for \$1,450 payable to
8 defendant James Gorab.

9 "7. On or about October 4, 1972 the defendant
10 Lamont drew a check for \$1,050 payable to defendant Gorab.

11 "8. On or about October 6, 1972 defendant
12 Rodney received \$1,375 in cash.

13 "9. In or about October 1972 defendant Sheldon
14 J. Zalkin placed a telephone call to the Garden State
15 National Bank of New Jersey.

16 "10. On or about October 31, 1972 defendants
17 Sellarole and Rodney had a conversation.

18 "11. On or about November 13, 1972 defendants
19 Sellarole and Rodney had a conversation."

20 Of the ten overt acts set forth in the indictment,
21 seven allege that certain co-conspirators either met or
22 conversed or engaged in telephone conversations.

23 Normally, for persons to meet or converse or to
24 talk over a telephone, or to write a check - and there is
25 a reference to several checks in the overt acts - is not

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2 in and of itself illegal. But if such talks, or the writing
3 of checks, as the government charges, were to discuss and
4 negotiate and agree upon the bribing of a public official,
5 or the payment of a bribe or installments thereof, or the
6 furthering of such a purpose, then such meetings, and con-
7 versations and checks lose their innocent character.
8 They are then overt acts performed to further the objec-
9 tives of an illegal enterprise, and as such become an
10 element of the crime of conspiracy.

11 It is not necessary for the government to prove
12 that each member of the conspiracy committed or partici-
13 pated in a particular overt act, since the act of anyone
14 done in furtherance of the conspiracy becomes the act of
15 all the other members.

16 Also, the government is not required to prove
17 each of the overt acts. It is sufficient if it proves
18 the commission of at least one of the overt acts set forth
19 in the indictment at or about the time and place alleged.

20 The law only requires a substantial similarity
21 between the dates alleged in the indictment and the dates
22 mentioned in the testimony.

23 While the indictment charges the conspiracy began
24 on or about the first day of June, 1972 and continued until
25 the date of the filing, December 12, 1973, it is not

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essential that the government prove the conspiracy started and ended on or about those specific dates. Indeed, from the government's proof it would appear that the conspiracy, if one did exist, originated about August or early September 1972 when the subject of "fees" was allegedly first discussed in connection with the transfer of public funds and didn't extend beyond March 1973 when the defendant was called before the Grand Jury.

It is sufficient if you find that in fact a conspiracy was formed and existed for some substantial time within the period set forth in the indictment, and that at least one of the overt acts was committed in furtherance thereof within that period.

It is not required that a conspirator know all the other members of the conspiracy. For example, the government does not claim that Sellarole ever met or knew Lamont.

With these general principles as a guide, you will consider whether the government, by the required degree of proof, had established the elements of the conspiracy charged.

Let us consider Count 2, the substantive count.

"The Grand Jury charges that from on or about June 1, 1972 up to and including January 31, 1973, in the

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2 Southern District of New York and elsewhere, Robert C.
3 Sellarole, Gordon Rodney, James W. Gorab, Herbert Slaitin,
4 Johnson O. Lamont and Sheldon J. Zalkin, the defendants,
5 unlawfully and knowingly did use and cause to be used
6 facilities in interstate and foreign commerce, including
7 telephones and the mails, and would travel and cause
8 others to travel in interstate commerce, with intent to
9 promote, manage, establish, carry on or facilitate the
10 promotion, management, establishment and carrying on of
11 unlawful activity, to wit, bribery in violation of the
12 laws of the State of New Jersey, namely New Jersey Statute
13 2A:93-6, and thereafter said defendants did distribute the
14 proceeds of said unlawful activity and did perform and
15 attempt to perform acts to promote, manage, establish, car-
16 ry on or facilitate the promotion, management and carrying
17 on of said unlawful bribery, Title 18, United States Code,
18 Sections 1952 and 2."

19 That last reference, Section 2 of Title 18,
20 United States Code, is to another federal law known as
21 the Aiding and Abetting Law, which I shall presently dis-
22 cuss.

23 In order to sustain the substantive charge
24 against the defendant Sellarole, the government must estab-
25 lish beyond a reasonable doubt:

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2 (1) That from June 1, 1972 through January 31,
3 1973 the defendant did, within that period, or caused others
4 to, travel between New York and New Jersey, or to make tele-
5 phone calls between New York and New Jersey;

6 (2) That such acts of travel or telephoning were
7 intended to promote, facilitate or carry on an unlawful
8 activity, to wit, bribery in violation of the laws of
9 New Jersey;

10 (3) That at a time subsequent to any such travel
11 or interstate telephone calls, the defendant performed
12 acts to promote, facilitate and carry on the unlawful
13 activity of bribery;

14 (4) That the defendant acted willfully and
15 knowingly.

16 Willfully, which I previously defined, means
17 deliberately, intentionally and purposely, as distinguished
18 from mistake, inadvertence or negligence.

19 Knowingly means one is fully aware of what he
20 is doing.

21 In order to establish the charge, it is not
22 necessary for the government to show that the defendant
23 on trial personally committed every act constituting the
24 crime charged.

25 Where two or more persons are charged with the

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2 commission of a crime, the guilt of an accused may be
3 established without proof that the defendant did every act
4 constituting the offense.

5 This is where the aiding and abetting law comes
6 into play. This provides that a person who aids and abets
7 another to commit an offense is just as guilty of that
8 offense as if he himself committed it. The exact language
9 of the law is:

10 "Whoever commits an offense against the United
11 States or aids, abets, counsels, commands, induces or pro-
12 cures its commission, is punishable as a principal."

13 Accordingly, you may find the defendant Sellarole
14 guilty of the offense charged if you find beyond a reason-
15 able doubt that one or more of the other defendants named
16 in Count 2 committed the acts constituting the crime and
17 that Sellarole aided and abetted that defendant or defend-
18 ants by willfully participating therein.

19 In order to aid and abet another to commit a
20 crime, it is necessary that one knowingly associate him-
21 self and participate in the venture; that he makes it his
22 own and have a stake in its outcome.

23 In other words, if fully aware of what he is do-
24 ing, one plays a significant role, furthers and facili-
25 tates an act prohibited by law, he is equally guilty with

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2 the person who directly performs the illegal act or acts,
3 even though the latter may have played a much greater part
4 in the perpetration of the crime.

5 The government points out that there are several
6 phone calls and acts, any one of which satisfy your juris-
7 dictional requirements of the substantive charge.

8 For example, the government contends:

9 (1) That Gorab and Slaitin had several inter-
10 state phone calls concerning transfers of Sewer Authority
11 funds;

12 (2) That there were several interstate phone
13 calls made by Zalkin to (a) individuals at the Sewer
14 Authority, and (b) by Rodney to Zalkin;

15 (3) That there was an interstate phone call from
16 the Garden State National Bank to the Federal Reserve Bank
17 in New York to transfer \$1,000,000 to the Sterling
18 National Bank;

19 (4) There was Sellarole's testimony before you
20 and also in his Grand Jury testimony that he spoke by
21 telephone to Zalkin of the Sterling Bank in New York about
22 placing funds with the bank;

23 (5) Gorab's neighbor Welsh, travelled from New
24 York to New Jersey with the envelope containing the \$1,250
25 check.

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Now, let us turn to the remaining counts.

Essential to the administration of justice and the enforcement of the laws is that those called upon to testify before competent tribunals empowered by law to administer oaths, give truthful testimony. This Federal Court is such a tribunal and there are other bodies, such as a Grand Jury, or a regular jury, such as yours, as well as other official bodies before whom oaths are administered.

Witnesses appearing before such bodies, whether voluntarily or under compulsion of a subpoena, take an oath to tell the truth, the whole truth and nothing but the whole truth, just as you have heard that oath administered in this courtroom to every witness who testified before you. And once under such an oath, the witness is bound to tell what he knows and answer the questions put to him for the purpose of bringing out the truth of the matter under inquiry.

The third, fourth, fifth and seventh counts are based upon a federal law, 18 United States Code, Section 1623, which in pertinent part provides:

"Whoever under oath in any proceeding before ... any ... Grand Jury of the United States makes any false material declarations ..." shall be guilty of an offense.

Simply stated, a false declaration is the giving

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under oath of false testimony as to a material matter before a Grand Jury, which the witness knows is false.

The indictment charges that in four separate instances the defendant made such false declarations as follows:

Count 3 charges that "On or about March 13, 1973, in the Southern District of New York, Robert C. Sellarole, the defendant, having duly taken an oath as a witness that he would testify truthfully before a Grand Jury of the United States of America, duly impanelled and sworn in the United States District Court for the Southern District of New York, and inquiring for that District into violations of federal law, unlawfully, willfully and knowingly and contrary to said oath did make false material declarations as hereinafter set forth in the following counts:

"2. At the time and place aforesaid, the said Grand Jury was conducting an investigation into possible violations of Sections 2, 371 and 1952 of Title 18, United States Code, to determine whether defendant Robert C. Sellarole and others had agreed to receive and give payments or other things of value in connection with the transfer of funds of the Bergen County Sewer Authority, and to determine whether any persons violated such statutes.

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2 "3. It was material to the investigation des-
3 cribed in paragraph 2 hereof to ascertain whether there
4 was any money or other thing of value given or paid to any
5 person and whether there was any conversation with any per-
6 son concerning the placing of any Sewer Authority deposits
7 and to ascertain the identity of any such persons, and
8 what was said on that subject.

9 "4. At that time and place aforesaid Robert C.
10 Sellarole, the defendant, appearing as a witness under
11 oath before said Grand Jury did testify falsely, with
12 respect to the aforesaid material matters as follows:

13 "Count 3:

14 "Q Have you had conversations with Mr. Gorab in
15 any respect about the placing of certificates of deposit
16 or other investments with any other banks?

17 "A No.

18 "Q You are sure of that?

19 "A Not that I remember. No. Not at all.

20 "Q Now, did Mr. Gorab ever ask you to make or
21 recommend any investment by the Sewer Commission to any
22 financial institution?

23 "A Not to my knowledge. He's never directly asked
24 for anything in the way of CD's.

25 "Q You say directly. Has he ever indirectly asked

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2 for anything?

3 "A No, I don't remember any conversation with Mr.
4 Gorab relative to CD's, certificates of deposit.

5 "Q And that's a question I've asked you earlier this
6 morning, and you have had some time to think about it, I
7 take it?

8 "A Yes.

9 "Q And your answer is that you have no recollection
10 of any such conversation?

11 "A No. That's the answer. Yes.

12 "Count 4:

13 "Q Now, was there any discussion concerning the
14 placing of this certificate of deposit about making any
15 loans to any persons either connected with you or con-
16 nected with any person who is in any way involved with
17 the negotiations for the placing of this certificate of
18 deposit at the Sterling Bank?

19 "A No.

20 "Q Was there any discussion about any fee to be
21 paid to any person in connection with the placing of this
22 certificate of deposit?

23 "A No.

24 "Q Was there any fee paid to any person, to your
25 knowledge, in connection with the placing of this certifi-
cate of deposit?

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2 "A No.

3 "Q You realize, of course, that would be a crime?

4 "A Of course.

5 "Count 5:

6 "Q So after you contacted Mr. Guido, is it your
7 information that this money was transferred and a certi-
8 ficate of deposit returned?

9 "A Yes. We received weekly communications on the
10 activity in certificates of deposit and investments from
11 our office.

12 "Q Was Mr. Rodney in any way connected with these
13 negotiations after you telephoned Mr. Zalkin?

14 "A No. He would have no business to be involved.

15 "Q Did you have any conversations with Mr. Rodney
16 about this matter?

17 "A I might have mentioned to him that a CD had
18 taken place, yes.

19 "Q Was there any other discussion with Mr. Rodney
20 concerning the Sterling Bank?

21 "A No. There was not.

22 "Q Was there any discussion concerning placing
23 another certificate of deposit or investing further moneys
24 of the Sewer Commission with the Sterling Bank, following
25 the first certificate of deposit?

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2 "A Not to my knowledge.

3 "Q Well, did you have any conversation about that
4 subject?

5 "A None with me, no.

6 "Q Do you know whether there was any such conver-
7 sation?

8 "A No, I do not.

9 "Count 7:

10 "Q Now, what was the discussion with Mr. Olsberg?
11 Incidentally, did that have anything to do with the funds
12 from the Sewer Commission?

13 "A No, it had nothing to do with that. Strictly
14 on the basis of what kind of a statement and what his
15 pro forma record was, and the type of work and contracts
16 he had on hand.

17 "Q Did you have any conversation with Mr. Olsberg
18 in connection with investing funds of the Sewer Commission?

19 "A No."

20 And Title 18, United States Code, Section 1623.
21 That is the statute read to you.

22 Of course, it is hardly to be expected you will
23 remember these questions and answers and you will get a
24 copy so you can have it before you.

25 You must consider each count separately and

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render a separate verdict as to each.

In order to find the defendant guilty as to a particular count - I am discussing, as you understand, the perjury counts - the government must establish beyond a reasonable doubt the following essential elements:

(1) That on or about the dates set forth the defendant had taken an oath to testify truly before a Grand Jury sitting in the Southern District of New York, a competent tribunal authorized by law to administer oaths;

(2) That the defendant made false declarations or answers as to matters about which he testified as set forth in the indictment;

(3) That such false declarations or answers were willfully made in that the defendant knew them to be false;

(4) That the matters as to which it is charged the defendant made the false declarations were material to the issues which were the subject of the Grand Jury inquiry.

Your task has been somewhat simplified, since there is no issue as to the first and fourth **elements**.

The evidence shows, and there appears to be no dispute, that the defendant appeared before a Grand Jury in this district on March 13, 1973, and took an oath that

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2 he would testify truly.

3 The evidence also shows the defendant gave the
4 answers to the questions as alleged in the indictment and
5 which I read to you.

6 Further, I charge you as a matter of law that
7 the matters as to which the defendant testified were
8 material to the issues then under inquiry by the Grand
9 Jury.

10 The issue of materiality is one which the Court
11 decides. Thus, you need not concern yourselves with the
12 first and fourth elements, and your field of inquiry is
13 narrowed.

14 Your principal concern is with the second and
15 third elements, to which I already referred, and they raise
16 the following questions for you to consider with respect
17 to each of the four counts:

18 (1) Was any part of the testimony given by the
19 defendant, as set forth in the particular count of the
20 indictment, false, and, if so;

21 (2) did the defendant give such false answers,
22 knowing it was false.

23 In short, did the defendant know and believe at
24 the time he testified that his answers were contrary to
25 the truth?

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A statement or answer to a question is false when it is contrary to the fact; in short, it is not true.

The burden is upon the government to establish beyond a reasonable doubt that the statements made by the defendant were in fact false.

The perjury counts contain answers given by the defendant which recite more than one fact. It is not necessary for the government to prove that each of these facts and statements is false. It is sufficient if it proves beyond a reasonable doubt that at least one factual statement in the count under consideration is false. And if it has, then before you may convict, the government must also establish beyond a reasonable doubt that the defendant gave such false testimony "knowingly."

You will recall the statute makes it an offense when one "knowingly makes any false material declaration..."

You must also find that the defendant acted willfully.

What do these words "knowingly" and "willfully" mean?

First, as to what they do not mean. They do not mean that the government must show that the defendant knew he was breaking a particular law. They do not mean that the government must show that the defendant intended

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2 to profit at the expense of the government or any other
3 person.

4 The word "knowingly" means that the defendant,
5 aware of the true facts, made the false statement with the
6 knowledge that the statement was false.

7 "Willfully" means that the defendant acted
8 deliberately, intentionally and purposely -- that he
9 intended to make the false statement consciously and in
10 the exercise of his free will.

11 It does not mean inadvertence, negligence,
12 mistake, confusion or misunderstanding.

13 Thus, if the false statements, if you do so
14 find, were the result of an honest mistake, or due to
15 faulty memory or recollection, or to a misunderstanding of
16 the questions or their import, these circumstances would
17 negative willfulness.

18 But if, at the time that the defendant testified
19 before the Grand Jury, he was aware that he was making a
20 false statement, and if he knew and he believed his
21 statement was false at that time, at the time he made it,
22 then he acted "knowingly" and "willfully," as those terms
23 are used in the statute.

24 "Willfulness" again involves the state of a man's
25 mind --- the intent and the purpose with which he acts --

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2 and "knowingly" involves what in fact he knew. These are
3 issues of fact such as the state of a man's digestion.
4 They are issues of fact that you as members of the jury
5 have to determine.

6 Thus, consideration of all the facts and cir-
7 cumstances established by the evidence may permit a reason-
8 able inference with a fair degree of accuracy as to
9 defendant's intentions at the time he gave his testimony.

10 The government in the main relies upon the
11 direct evidence of witnesses as to what allegedly are the
12 true facts as to which it charges the defendant made false
13 statements.

14 The government is not required to prove its case
15 by any particular number of witnesses or by documentary
16 proof or any other type of evidence.

17 Thus, the testimony of one witness, if believed
18 by you, is sufficient to establish an alleged false
19 declaration.

20 Against this background of the applicable law
21 as it pertains to the various counts -- the conspiracy,
22 substantive and perjury counts -- let us turn to the evi-
23 dence and the contentions of the parties.

24 There has been much testimony which from its
25 nature has spread out somewhat -- yet the issues you

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2 are called upon to decide are comparatively simple.

3 It is desirable so as to bring the evidence within
4 the framework of the charges contained in the indictment,
5 to review in broad outline the testimony.

6 In large measure the government's case rests
7 upon the testimony of Gordon Rodney, James Gorab, Herbert
8 Olsberg and tape recordings of conversations, including
9 those with the defendant.

10 The thrust of the government's charge is that
11 the conspiracy had its onset in the summer of 1972, when
12 Sellarole and Rodney met and discussed soil deposits,
13 cattle raising and the home building projects.

14 Then, according to Rodney, Sellarole mentioned
15 he was a Commissioner on the Bergen County Sewer Authority
16 where he was spending more time than he anticipated; that
17 it was a constant daily chore.

18 Thereupon, Rodney indicated that he was about to
19 start working for Gorab, who was a mortgage broker and who
20 might be helpful in locating time deposits for Sewer
21 Authority funds; the defendant expressed interest.

22 As a result, Rodney talked to Gorab, who said
23 there would be no problem in finding places to put the
24 time deposits, following which Rodney testified he again
25 met with the defendant, told him of his talk with Gorab

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2 that fees would be involved, whereupon defendant said he
3 only wanted to deal with Rodney; that defendant then showed
4 him a list of deposits which were maturing or rolling over,
5 as the term was used, and asked Rodney to let him know of
6 a bank ready to receive deposits, and he, the defendant,
7 would negotiate the terms and recommend to the Sewer
8 Authority the transfer of the funds to the bank.

9 Further, according to government witnesses, in
10 late September Gorab arranged through an associate in New
11 York, Herbert Slaitin, for the payment of a \$2,500 fee if
12 the Sewer Authority would transfer one million dollar time
13 deposits to the Sterling National Bank of New York; that
14 Rodney advised defendant of this and gave him the name of
15 the party to contact at the Sterling Bank, and Sellarole
16 said that they would submit the fee.

17 Thereafter, on September 22, 1972, \$1,000,000 was
18 transferred to the Sterling National Bank upon a telephone
19 request to the Federal Reserve Bank made by the Garden
20 State National Bank.

21 The government contends that the sum actually
22 paid for this transfer was \$1,250, paid by check, which
23 Gorab arranged to have his neighbor, Charles Welch deliver
24 from New York to Gorab in New Jersey.

25 Both Gorab and Rodney testified that on September

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2 28th they met with the defendant and his son at a restau-
3 rant; that Gorab and his son went to the men's room where
4 Gorab gave the son \$850 out of the \$1,250 payment, and
5 when they returned, the defendant nodded to his son.

6 Thereafter, according to the government's case,
7 other proposed transfers of Sewer Authority funds to
8 Sterling National Bank and other deposits in a bank on
9 Long Island were discussed at various times by the defend-
10 ant, Gorab, Rodney and Herbert Olsberg, who, unknown to
11 the others, was a government informant and who had tape
12 recorded some of the conversations.

13 The government also offered proof that \$2,500
14 was paid as an advance, or up front, for another million
15 dollar transfer to the Sterling Bank.

16 According to the evidence the \$2,500 was deli-
17 vered by Olsberg to Gorab's mother while Gorab was on
18 his honeymoon.

19 The mother testified she gave \$1,875 of that
20 sum to Rodney, who testified that he handed \$1,250 in
21 cash to the defendant in a men's room of the Adam's
22 Diner and kept \$625 for himself.

23 The check for the \$2,500 and the receipt signed
24 by Rodney for the \$1,875 are in evidence.

25 The second million dollars, however, was never

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2 transferred to the Sterling National Bank, nor did
3 Sellarole ever arrange for any other transfer of time
4 deposits.

5 There is evidence that Zalkin, an officer of
6 the bank, made calls to one or more of the alleged conspi-
7 rators asking when the additional deposits were to be made.

8 The government contends, among other matters,
9 that the discussions had by the defendant with Rodney,
10 Gorab and Olsberg, and the payment to and the receipt by
11 him on one occasion of \$850, and on the other of \$1,250,
12 and interstate telephone calls, as well as the carrying
13 of the check by Welch from New York to New Jersey for
14 delivery to Gorab, fully establish both the conspiracy and
15 the substantive counts.

16 As to the perjury counts, the government contends
17 that Sellarole gave false answers before the Grand Jury
18 to certain of the questions he was then asked, and which
19 I have just read to you. These relate generally to his
20 testimony with respect to the transfer of funds to the
21 banks; and his conversations with Rodney, Gorab and Olsberg
22 relative to certificates of deposit.

23 The government contends that the evidence offered
24 by the government's witnesses Gorab, Rodney and Olsberg
25 as well as others, establishes that in fact he did testify

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2 falsely.

3 It also relies upon Sellarole's own statements
4 in the tape recordings and contends his explanation of his
5 answers given before you is implausible when viewed in the
6 context of his Grand Jury testimony.

7 Now, let us turn to the defendants. Sellarole
8 categorically denies he ever received \$850 from Gorab
9 through his son.

10 His son likewise denies receipt of any money
11 from Gorab.

12 Both admit they were at the bar with Gorab and
13 Rodney and testified that the son's presence was only
14 incidental.

15 Sellarole likewise denies he ever received \$1,250
16 from Rodney at the Adam's Diner. He testified that the
17 only money he ever received was \$1,250 from Olsberg in a
18 coffee shop near Olsberg's residence in New York about
19 November 10th or 11th, 1972, which was a referral fee
20 for having recommended one Caesar Vitale to Olsberg in
21 connection with the placement of a mortgage loan; and that
22 this statement had nothing to do with the deposit of the
23 Sewer Authority funds with the Sterling National Bank, or
24 any other bank.

25 As to the September 22, 1972 time deposit with

jwsf

1 the Sterling Bank, he acknowledged that he mentioned his posi-
2 tion as a Sewer Authority Commissioner to Rodney shortly
3 before, and also the difficulty in placing monies; that
4 Rodney suggested the Sterling Bank of New York would pay
5 a higher rate of interest for Authority time deposits than
6 New Jersey Banks; that he thereafter telephoned Zalkin,
7 whose name Rodney had given him; that after discussion
8 with Zalkin, being satisfied with the interest rate, he
9 recommended to the Authority the transfer of funds which
10 was effectuated on September 22nd; that this was done in
11 the normal course of his duties as a Sewer Authority
12 Commissioner.
13

14 He denies he ever received a fee for this or
15 any other transfer of time deposits.

16 Sellarole denies he ever discussed time deposits
17 with Gorab, and although he did discuss them with Olsberg
18 and Rodney, he testified that his dealings with all three
19 men concerned business matters entirely unrelated to the
20 Sewer Authority.

21 As to recorded conversations on the tapes where-
22 in he was a participant, he testified that with respect
23 to certain references Olsberg was continually pressing
24 him about time deposits and in the defendant's words, to
25 put Olsberg off, he was discussing procedures to be

1 jwsf

2 followed with respect to such time deposits, but not actual
3 transfer of funds; that otherwise his statements referred
4 to the Vitale or other transactions unrelated to time
5 deposits.

6 As to \$1,250 which Sellarole testified he
7 received from Olsberg as a referral fee in the Vitale
8 transaction, all references on the tape as to that sum,
9 its return or **exhibits, related to that money**
10 and not to any fee for the transfer of Authority funds;
11 that his reference to certain dates in response to Olsberg's
12 statements or questions were also to Vitale on other
13 transactions **and not to availability or rollover of time**
14 **deposits.**

15 As to his Grand Jury testimony upon which the
16 perjury charge is based, Sellarole testified that before
17 he appeared before that body, questions asked of him by
18 the Assistant United States Attorney had to do with the
19 Sterling Bank. And so when he was questioned before the
20 Grand Jury he thought that the questions related to the
21 certificate of deposit in the Sterling Bank transaction
22 and his answers were given accordingly.

23 Herbert Olsberg was called by the government as
24 a witness in rebuttal. He testified he never spoke with
25 Sellarole on the telephone before their first meeting on

1 jwsf
2 October 31, 1972; that he did not meet Vitale until
3 November 12, 1972 and never received any money from him;
4 that he never met Sellarole in a coffee shop; that he never
5 gave Sellarole \$1,250; that a discussion with Sellarole
6 about the \$1,250 and its return related solely to the
7 \$1,250 that he understood was half of the \$2,500 given to
8 Jean Gorab and that it had nothing to do with Vitale.

9 Now, this review in broad outline points up
10 some of the evidence and the differences in testimony.
11 It is intended to focus attention upon issues, disputed
12 issues of facts to be considered by you. I have not attem-
13 ted to review in detail the testimony of all the witnesses.
14 You, of course, will consider all the evidence, whether
15 or not the lawyers in their summations or the Court in it's
16 charge have referred to it. All evidence in the case is
17 important.

18 I have, of course, attempted to adhere to the
19 record, but if perchance any reference I have made to the
20 testimony does not accord with your own recollection then,
21 as I stated previously, you will rely entirely upon your
22 own recollection. And I emphasize that as strongly as I
23 can.

24 A word about the tape recordings. As I instructed
25 you during the trial, you should rely upon what you

1 jwsf

2 actually heard from the tape recordings. As to such por-
3 tions that may be somewhat inaudible or unclear, you
4 make a determination as to what you heard and if you have
5 any doubt you may reject it entirely.

6 The transcriptions of the tapes were given to you
7 only to assist you in hearing the tapes. You should dis-
8 regard the transcriptions where they do not conform with
9 what you heard on the tapes.

10 One final word on the recordings. The evidence
11 shows that Olsberg was the person equipped with the
12 recording devices whereby the tape recordings were made
13 and that this was done with Olsberg's consent in his
14 capacity as an undercover agent working with the Federal
15 Bureau of Investigation. In that circumstance, the use of
16 the recording devices was within law and violated no one's
17 rights. Their use was a proper investigative technique.

18 You are not to assume that I have any view as
19 to the credibility of the witnesses, or how you are to
20 decide the issues in the case. That is your responsibility
21 at all times.

22 The overruling or sustaining of objections, whe-
23 ther made by defendant's counsel or government counsel,
24 is not to be considered by you in any respect.

25 Counsel not only have a right, but it is indeed

1 jwsf
2 their duty on the offer of certain evidence to present
3 whatever legal objections there may be to its admission.
4 They are simply performing a duty on behalf of their
5 clients.

6 Now, out of the welter of testimony you are
7 called upon to decide the issues in the case. You have
8 heard a number of versions of events which are in
9 sharp conflict. Indeed, it is evident that the nature of
10 the contradictions suggest the differing versions are not
11 the result of inadvertence or faulty recollection. Thus,
12 upon all the evidence you are required to resolve the con-
13 flict.

14 A number of questions suggest themselves in the
15 search for the truth. Was \$350 paid to Sellarole, or
16 more accurately given to Sellarole's son in connection
17 with the transfer of deposits of \$1,000,000 to the Sterling
18 National Bank? Was \$1,250 paid to Sellarole in advance
19 for the second transfer of \$1,000,000? These are but a
20 few of the issues on which there is a sharp dispute.

21 How do you determine where the truth lies? I
22 mentioned at the very start of the trial, before you heard
23 a single word of testimony and without any knowledge as
24 to the facts of the case, and suggested to you then that
25 there might be a sharp issue of fact; that it was important

1 jwsf

2 for you not only to listen carefully to each witness, but
3 to observe each witness as he testified.

4 Your determination of the credibility of wit-
5 nesses very largely depends upon the impression he made
6 upon you as to whether or not he was giving you an accurate
7 version of what occurred.

8 I often say to jurors when you walk into this
9 courtroom and you sit in the jury box while the trial is
10 going on, or while you are deliberating in the jury room,
11 you have with you your common sense, your good judgment
12 and your experience. The degree of credit to be given to
13 a witness should be determined by his demeanor; his relation-
14 ship with to controversy, and the parties; his bias of impartiality
15 the reasonableness of his statements, the strength or
16 weakness of his recollection viewed in the light of all
17 other testimony and the attendant circumstances in the
18 case.

19 How did the witness impress you? Did his version
20 appear straightforward and candid, or did he try to hide
21 some of the facts? Is there a motive to testify falsely?
22 In other words, what you do, what you try to do, to use
23 the vernacular, is to size up a person just as you would
24 in any important matter where you are undertaking to
25 determine whether or not a person can be trusted, whether

1 jwsf

2 he is truthful, or whether he intends to lie to you.

3 In passing upon the credibility of a witness you
4 may take into account inconsistencies and contradictions
5 as to material matters in his own testimony or any conflict
6 with that of another witness.

7 Also on the issue of credibility you will con-
8 sider whether portions of a witness's trial testimony may
9 have been inconsistent with any previous statement made
10 by him on the same subject.

11 A witness may be inaccurate, contradictory or
12 even untruthful in some respects and yet may be entirely
13 credible in the essence of his testimony. The ultimate
14 question for you to decide in passing upon credibility is,
15 did the witness tell the substantial truth on the witness
16 stand before you.

17 It is for you to say whether his testimony at
18 this trial is truthful in whole or in part in the light
19 of his demeanor, his explanations and all the evidence.

20 The law permits a defendant to testify in his
21 own behalf. Defendant here so testified. Obviously a
22 defendant has a deep personal interest in the result of
23 his prosecution. Indeed, it is fair to say that he has
24 the greatest stake in its outcome. Interest creates a
25 motive for false testimony. The greater the interest,

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the stronger the motive. And a defendant's interest in the result of his trial is of a character possessed by no other witness. In apprising his credibility you may take his interest into consideration. However, it by no means follows that simply because a person has a vital interest in the end result that he is not capable of telling a truthful, candid and straightforward story. It is for you to decide to what extent, if at all, his interest has affected or colored his testimony.

Rodney and Gorab gave the principal evidence on which the government's case rests. They were by their own admissions participants in the conspiracy charged in the indictment. Each has pleaded guilty to the conspiracy charge against him. And, as I have already noted, that was his personal plea of guilty and is binding only upon him. Each now has a criminal record.

Herbert Olsberg, who also testified for the government, served in an undercover capacity for the FBI. He, too, has a criminal record.

In certain types of crime the government of necessity is frequently compelled to rely on the testimony of an accomplice, persons with criminal records, undercover agents or informers. Otherwise it would be difficult to detect and prosecute some wrongdoers. And this is

1 jwsf

2 particularly true in conspiracy cases. Often the govern-
3 ment has no choice in the matter. It has to take the wit-
4 nesses to the transactions as they are.

5 There is no requirement in the federal courts
6 that the testimony of an accomplice, an undercover agent,
7 an informer, or one with a criminal record be corroborated.
8 A conviction may rest upon the uncorroborated testimony
9 of such a witness if he is found credible. However, the
10 testimony of such a witness should be viewed with great
11 caution and scrutinized carefully.

12 But just as in the instance of a defendant who
13 has a vital interest in the outcome of the case, it does
14 not follow he is incapable of telling a truthful version
15 of events, so, too, it by no means follows that in the
16 instance of a person who has acknowledged participation in
17 a crime, or is an accomplice, that he is not capable of
18 giving a truthful version of events.

19 The ultimate question, I repeat, is did the
20 witness tell the truth before you? Was the testimony of
21 either Rodney or Gorab a fabrication induced by a promise?
22 Was the testimony of each induced by a belief that he
23 will receive favorable consideration upon his sentence on
24 his own plea of guilty in this case? Or has each under the
25 oath taken before you made a clean breast of his wrongdoing

1 jwsf

2 as a matter of conscience and told the truth of significant
3 events? Has each in the parlance of the day come clean?

4 If you find their testimony was deliberately
5 untruthful, you should unhesitatingly reject it. Indeed,
6 if you do not believe Gorab and Rodney, I would say to you
7 that you should acquit the defendant since the structure
8 of the government's case in large measure rests upon their
9 testimony.

10 On the other hand, if upon a cautious and care-
11 ful examination of their testimony you are satisfied they
12 have here given a truthful version of events and that the
13 government has sustained its burden of proof as outlined
14 in these instructions then you have sufficient upon which
15 to convict.

16 I have just instructed you with respect to the
17 factors to be considered in evaluating the testimony of
18 accomplices, persons with criminal records. If you find
19 any witness - and this applies to all witnesses, govern-
20 ment and defendant's - has willfully testified falsely
21 to any matters, you have a right to reject the testimony
22 of that witness in totality, or accept only that part or
23 portion which commends itself to your belief, or which
24 you may find corroborated by other evidence in the case.

25 Reference was made to some witnesses who were

1 jwsf

2 a consideration of the punishment which may be imposed upon
3 the defendant, if he is convicted, to enter into your deli-
4 berations or to influence your verdict in any way.

5 The duty of imposing a sentence is the sole
6 responsibility of the Court in event there is a conviction.

7 Each juror is entitled to his or her own opinion.
8 Each should, however, exchange views with fellow jurors.
9 That is the purpose of jury deliberation -- to discuss
10 and to sift the evidence, to listen to arguments of fellow
11 jurors, to present your own individual views, consult
12 with one another, to reach a verdict based upon the evidence
13 in the case.

14 Each must decide the case for himself or her-
15 self after consideration with fellow jurors of all the
16 evidence in the case.

17 If after listening to fellow jurors, you have
18 a point of view that differs and if you are persuaded by
19 the argument of a fellow juror, there is no reason why
20 you should not change a view originally held. But your
21 final vote must reflect your own conscientious judgment as
22 to how the case should be decided.

23 If in the course of your deliberations you re-
24 quire any of the exhibits, these will be sent to you upon
25 request.

1 jwsf

2 The charge here made is serious. The just deter-
3 mination of this case is important to the public. As I
4 mentioned at the very start of the trial, it is equally
5 important to the defendant.

6 Under your oath as jurors you must decide this
7 case without fear or favor and solely, as I have stated,
8 any number of times, in accordance with the evidence and
9 the law.

10 If the government has carried its burden as to
11 the defendant you must not flinch from your duty. You
12 must convict. But if it has failed to carry the burden
13 as to the defendant, equally your sworn duty is to acquit.

14 Now, I suggest you remain in your seats. There
15 may be matters the Court will want to see counsel on.
16 Come in the robing room.

17 (In the robing room)

18 THE COURT: Mr. Galluccio, you may state excep-
19 tions.

20 MR. GALLUCCIO: The only exception I have is
21 there is testimony that Mr. Olsberg has a criminal record.
22 And I thought the jury should be charged that they must
23 consider his criminal record, and, after considering it,
24 whether or not it affects his credibility as a witness.

25 THE COURT: I said that. I made a general

1 jvsf

2 statement as to that.

3 MR. GALLUCCIO: I know, I realize there was a
4 general statement, but -- and I am slightly embarrassed
5 because I don't know if the federal rule is the same as
6 New Jersey, but if in fact --

7 THE COURT: I made a reference to an accomplice,
8 persons with criminal records. I think the charge is
9 clear on that.

10 Do you have any other exceptions?

11 MR. GALLUCCIO: No, your Honor.

12 MR. SAGOR: Your Honor, in a couple of places
13 you mentioned \$850. It is my recollection Gorab said it
14 was \$800.

15 THE COURT: I think that's right.

16 (In open court)

17 THE COURT: Members of the jury, I was under the
18 impression - **that** I made it quite clear in passing upon
19 credibility among other matters -- that you have a right
20 to take into account the fact that a person has a criminal
21 record. I thought that was clear, but I mention it again.

22 Also, my attention has been called to the fact
23 that I made reference that the alleged payment in connec-
24 tion with the first transaction was \$850 and I am reminded
25 it was actually \$800 as the testimony reflects.

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(Alternative jurors discharged)

(Deputy marshals sworn)

THE COURT: All right, members of the jury, you may go with the marshals. You are in the custody of the marshals.

(Jury left the courtroom at 11:55 a.m. to commence deliberations.)

I (We) hereby certify that the foregoing is a true and accurate transcript to the best of my (our) skill and ability from my (our) stenographic notes of this proceeding.

Julian Wolf
Official Court Reporter
U. S. District Court

1 jwlm 1

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2 (Note received from the jury at 2 p.m.)

3 (Jury present, 2:45 p.m.)

4 THE COURT: I have a note from the jury which reads
5 as follows:

6 "We desire the transcript of Gorab's taped discus-
7 sions; also, if possible, Gorab's testimony in Court. We
8 want to see the telegram Gorab sent."

9 First the counsel will get together with the
10 transcript of Gorab's taped discussions.

11 Mr. Galluccio, will you check over those Mr. Sagor
12 has?

13 MR. GALLUCCIO: Correct, your Honor.

14 THE COURT: Are those Government's Exhibits 11-A,
15 12-A, 13-A, 14-A; is that correct?

16 MR. SAGOR: Yes, your Honor. Government's Exhibit 8
17 is the telegram.

18 THE COURT: Mr. Clerk, please give those to the
19 forelady.

20 Now, do you want that testimony read now, the
21 testimony that you requested?

22 All right, Mr. Reporter.

23 (Record read.)

24 THE COURT: Is that all you wanted?

25 MR. SAGOR: I believe they wanted more testimony.

1 jwlm 2

2 THE COURT: The jury indicated that's as much as
3 they wanted.

4 JUROR NO. 12: Is there more conversation?

5 THE COURT: Yes. Do you want it?

6 JUROR NO. 12: Yes.

7 THE COURT: All right, any time you heard as much
8 as you want, let the Court know.

9 MR. GALLUCCIO: Your Honor, I could be in error, I
10 don't know whether we adjourned or there was a witness out of
11 turn.

12 THE COURT: The next morning on May 9th there is
13 the morning session.

14 THE FORELADY: We have had what we want.

15 THE COURT: You all have what you want?

16 THE FORELADY: Yes.

17 THE COURT: Then you may resume deliberations.

18 (The jury left the courtroom to resume deliberations
19 at 3:10 p.m.)

20 THE COURT: The clerk will mark this as a Court
21 exhibit.

22 (Note from jury marked Court Exhibit 3.)

23 (Note received from the jury at 3:20 p.m.)

24 (Jury present, 3:30 p.m.)

25 THE COURT: I have a note from the jury. The jury

1 jwlm 3

2 has reached a verdict.

3 THE CLERK: The jurors will please answer as their
4 names are called.

5 (Jury roll call, all jurors present.)

6 THE CLERK: Madam Forelady, have you agreed upon a
7 verdict?

8 THE FORELADY: Yes.

9 THE CLERK: How do you find?

10 THE FORELADY: We find the defendant guilty on
11 Count 1.

12 THE CLERK: Count 1, you find the defendant guilty.

13 THE FORELADY: On the second count we find the
14 defendant guilty.

15 THE CLERK: Count 2, the defendant guilty.

16 THE FORELADY: On County 3, defendant not guilty.

17 THE CLERK: Count 4?

18 THE FORELADY: We find the defendant guilty.

19 THE CLERK: Guilty on Count 4.

20 Count 5?

21 THE FORELADY: We found the defendant guilty.

22 THE CLERK: Count 7?

23 THE FORELADY: Guilty.

24 THE CLERK: Ladies and gentlemen of the jury,
25 listen to your verdict as it stands recorded.

1 jwlm 4

2 On Count 1 you find the defendant guilty.

3 Count 2, you find the defendant guilty.

4 Count 3, you find the defendant not guilty.

5 Count 4, you find the defendant guilty.

6 Count 5, you find the defendant guilty.

7 Count 7, you find the defendant guilty.

8 THE COURT: Members of the jury, before we go, just
9 a word or two -- I will detain you for a moment -- my
10 recollection is that not too many of you served as jurors
11 before.

12 How many of you did not serve before?

13 That means most of you have not.

14 Off the record.

15 (Discussion off the record.)

16 (Jury discharged.)

17 THE COURT: The Court will require a pre-sentence
18 report in this case. The other defendants are down for a
19 week from Friday.

20 I will put this down for June 21st. Is that a
21 convenient date for you, Mr. Galluccio?

22 MR. GALLUCCIO: I believe so, your Honor.

23 THE COURT: June 21st, ten o'clock, in whatever
24 courtroom I will be in.

25 And Mr. Galluccio, will you please see that your

1 jwlm 4a

1140a

2 client goes now to the probation office? The clerk of the
3 Court will give you the information about where you are to go.

4 That will be in Courtroom 706.

5 (Trial concluded.)

6 * * *

JUDGMENT OF CONVICTION (Filed June 21, 1974)

279a

JUN 21 1974

SOUTHERN DISTRICT OF NEW JERSEY

S. D. OF N. ^Y United States of America

v.

ROBERT C. SELLAROLE

No. 73 Cr. 1114(EW)

On this 21st day of June, 1974, ^{xxx} came the attorney for the government and the defendant appeared in person and¹ by Adolph J. Galluccio, Esq., counsel

IT IS ADJUDGED that the defendant upon his plea of² not guilty and a verdict of guilty by a jury

has been convicted of the offense of unlawfully, wilfully and knowingly did use and cause to be used facilities in interstate & foreign commerce, including telephones and the mails, and would travel and cause others to travel in interstate commerce, with intent to promote, manage, establish, carry on and facilitate an unlawful activity, to wit, bribery in violation of the laws of the State of New Jersey. (Title 18, Sections 1952 and 2 USC.); conspiracy so to do. (Title 18, Section 371 USC.); unlawfully, wilfully and knowingly and contrary to an oath taken before a grand jury of the United States, did make false material declarations. (Title 18, Section 1623 USC.)

as charged³ in counts 1,2,4,5 & 7

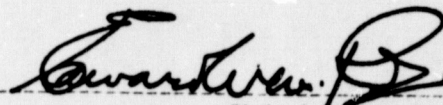
and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

IT IS ADJUDGED that the defendant is guilty as charged and convicted.

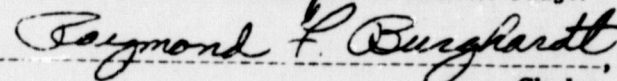
IT IS ADJUDGED that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of⁴ TWO (2) YEARS on each of counts 1, 2, 4, 5 and 7 to run concurrently with each other.

Defendant continued released on own recognizance until no later than 10 A.M., June 24, 1974, at which time he is to surrender to the United States Marshal for service of sentence.

IT IS ORDERED that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.



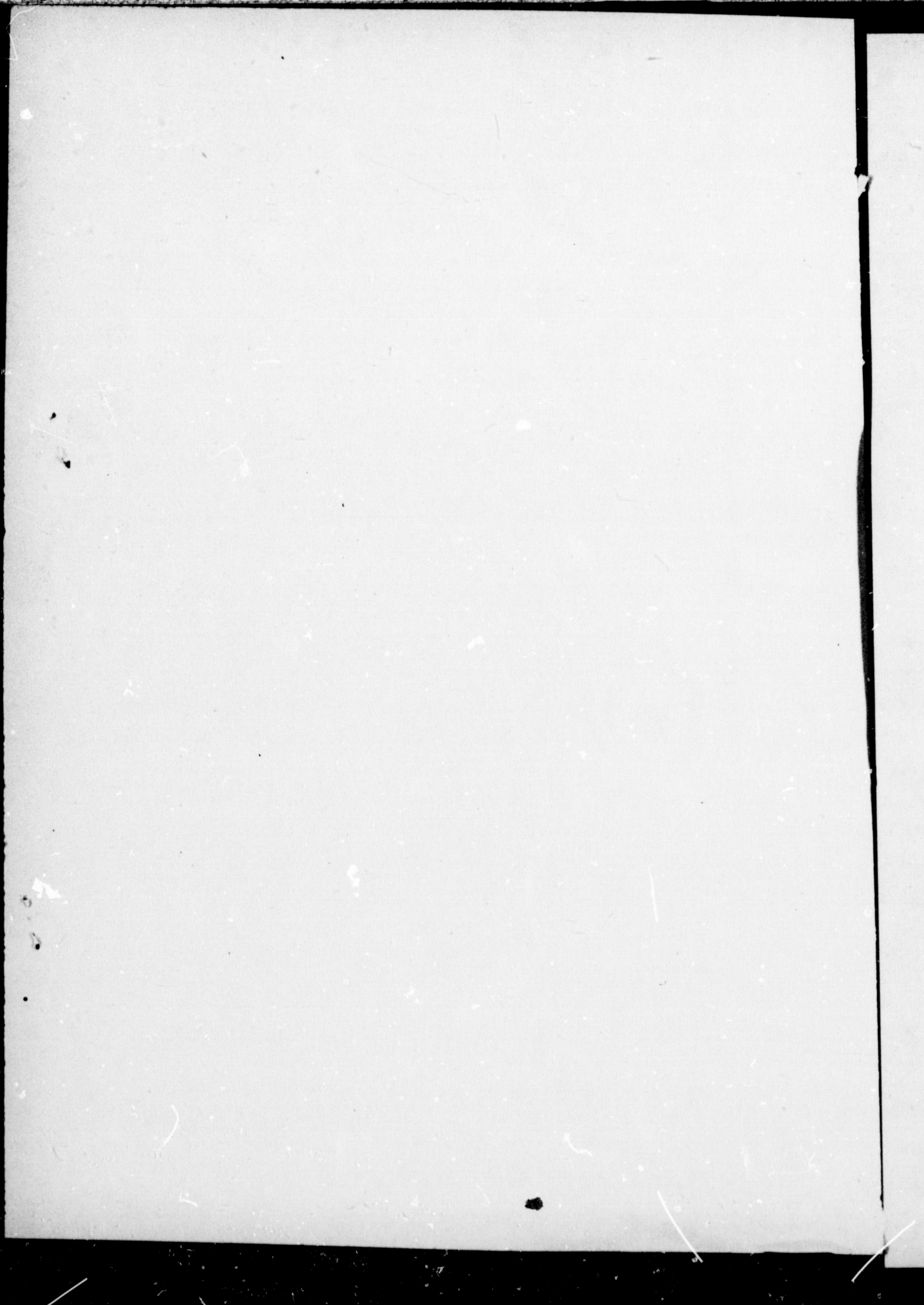
United States District Judge.



Clerk.

~~THIS CASE IS NOT TO BE REOPENED WITHOUT ORDER OF THE COURT~~

¹Insert "by [name of counsel], counsel" or without counsel; the court advised the defendant of his rights to counsel and asked him whether he desired to have counsel appointed by the court, and the defendant thereupon stated that he waived the right to the assistance of counsel." ²Insert (1) "guilty and the court being satisfied there is a factual basis for the plea." (2) "not guilty, and a verdict of guilty." (3) "not guilty, and a finding of guilty." or (4) "nolo contendere," as the case may be. ³Insert "in count(s) number _____" if required. ⁴Enter (1) sentence or sentences, specifying counts if any; (2) whether sentences are to run concurrently or consecutively and, if consecutively, when each term is to begin with reference to termination of preceding term or to any other outstanding unserved sentence; (3) whether defendant is to be further imprisoned until payment of the fine or fine and costs, or until he is otherwise discharged as provided by law. ⁵Enter any order with respect to suspension and probation. ⁶For use of Court to recommend a particular institution.



U.S. COURT OF APPEALS: SECOND CIRCUIT

U.S.A.,

Appellee,

against

SELLEROLE,

Appellant.

Index No.

Affidavit of Personal Service

STATE OF NEW YORK, COUNTY OF NEW YORK ss.:

being duly sworn,

I, James Steele;

deposes and says that deponent is not a party to the action, is over 18 years of age and resides at

250 West 146th Street, New York, New York
That on the 7th day of August 1974 at Foley Square, New Yorkdeponent served the annexed *Appellant's Appendix* upon

Paul J. Curran-U.S. Attorney for the Southern Dist.

the in this action by delivering a true copy thereof to said individual personally. Deponent knew the person so served to be the person mentioned and described in said papers as the Attorney(s) herein,

Sworn to before me, this 7th

day of

August

19 74

Print name beneath signature

JAMES STEELE

ROBERT T. BRIN

NOTARY PUBLIC, STATE OF NEW YORK

NO. 31 - 0413950

QUALIFIED IN NEW YORK COUNTY
COMMISSION EXPIRES MARCH 30, 1975